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MODERN GERMAN POLITICAL THEORY

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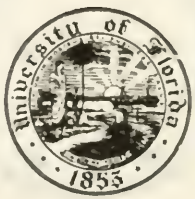

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MODERN GERMAN POLITICAL THEORY

By OTTO BUTZ
Swarthmore College

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Preface

The survey and analysis of modern German political theory presented in these pages is based in large part on work done originally in connection with my doctoral dissertation. My first indebtedness, therefore, is to my thesis adviser, Professor William Ebenstein, Princeton University, whose guidance in the matter of sources was invaluable. The conception of political theory with which I approached the problem of selection and interpretation, on the other hand, I owe, more than to any other one person, to Professor Richard C. Snyder, also of Princeton University, who has given me generously of his time both during my graduate work and since. Thirdly, I am indebted to the Social Science Research Council which, in appointing me to one of its generous fellowships for the year 1952–1953, enabled me to spend nine months in Western Germany and West Berlin familiarizing myself at first hand with political thinking, writing, and teaching as these have been developing at German universities since 1945. Among the people who facilitated my work in Germany, I extend particular thanks to Professors Adolf Grabowsky and Wolfgang Abendroth, both of the University of Marburg. And finally, I am deeply indebted to the Center of International Studies at Princeton University. It was during the year 1953–1954, which I spent there as a visiting research scholar, that this Short Study was written.

Responsibility for the selection of the materials presented, for the translations (unless otherwise stated), and for the views expressed is, of course, wholly my own.

Otto Butz

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Contents

Preface vi

Chapter One. The Study of German Political Theory 1

The Significance of Political Theory 1
The Relevance of Modern German Political Theory 3
The Problem of Selection: Period and Theorists 4
Sources 5

Chapter Two. The Background of Modern German Political Theory 6

Apolitical Humanism 6
Political Romanticism 7
The Empirical Analysis of Baron von Stein 9
The Empirical Politics of the Liberal Intellectuals 10
The Political Failure of German Liberalism 12

Chapter Three. Political Theory in Imperial Germany 14

The Conceptual Separation of State and Society 14
Staatsrechtswissenschaft, State-Person, and *Rechtstaat* 15
Sozialpolitik, Academic Socialism, and the Authoritarian State 18
Significance of the Neglect of Political Theory 20

Chapter Four. Political Theory in Imperial Germany (*cont'd*) 22

Beginnings of Empirical Political Theory 22
Heinrich von Treitschke 22
Otto von Gierke 25
Georg Jellinek 27
Georg von Mayr 28
Richard Schmidt 29
The Rejection of the Imperial State 31
Hugo Preuss 31

Walther Rathenau 33
Max Weber 35
The Crisis of German Political Theory 35

Chapter Five. Trends During the Weimar Period 37

Contributions from Political Geography 37
Rudolf Kjellen 37
Karl Haushofer 38
Contributions from Sociology 40
Max Weber 40
Contributions from Jurisprudence 42
Carl Schmitt 42
Rudolf Smend 44
Hans Kelsen 46

Chapter Six. Scientific Political Theory in Weimar Germany 49

Adolf Grabowsky 49
Hermann Heller 51

Chapter Seven. Attacks on Scientific Political Theory 56

The Weimar Situation 56
The Implications for Scientific Political Theory 57
The Plea for Values, Faith, and Organic Unity:
Erich von Kahler 58
The Plea for Social and Political Reintegration: Hans Freyer 59
The Temporary Victory of National Socialism 61

Chapter Eight. German Political Theory since 1933 62

German Political Theory and National Socialism 62
The Primacy of *Staatsräson* 62
The Myth of the German *Volksgemeinschaft* 63
The Corporate State 64
Anti-Semitism 64
The *Führer* Principle 65
Self-Destruction of the Nazi State 66
German Political Theory: Present and Future 67
The Situation after 1945 67
Principal Obstacles 68
The Future of German Political Theory 69

Footnotes to the Study 70

CHAPTER ONE

The Study of German Political Theory

The Significance of Political Theory

Few studies are richer or more revealing of a society's culture than the study of political theory. Having as its subject matter the decision-making which defines what public relationships within and among societies shall be and by whom and for what ends these relationships shall be arranged, political theory is by its very nature concerned with more aspects of individual and social life than almost any other branch of learning. What sources could afford us more comprehensive and penetrating insights into the life of the Greek city-state, for example, than the *Laws* and the *Republic* of Plato or Aristotle's *Politics*? Where could we turn for a more expressive account of the problems and the temper of Renaissance Italy than is to be found in the pages of Machiavelli? Indeed, without reference to its political theory, a society's history—whether that of the ancient Athenians or our own—would be all but meaningless. And what is true in this regard of any one time and place is equally true of all societies taken together. The political theory of all the world's known societies, considered as one body of knowledge, is nothing less than the story of man's effort to solve the problems of men living together.

Among the aspects of any given society which are revealed in its political theory and which are of special interest to the historian and to the student of political behavior, one of the most important is the political values which its members hold, that is, the ends for which they believe their society exists, the priorities which they assign among these ends, and the means which they think may properly be employed for realizing them. In the case of the older and traditional type of political theory, political philosophy, the elaboration of such values and their application to particular circumstances has, indeed, almost always been the admitted, or at least implicit, primary concern. But even the newer writings on politics, those conceived of as empirical political theory, offer reliable clues to the political values of their authors and of those in the society with whom they identify themselves. For while the empirical political theorist may be objective in his actual analysis, his political values must inevitably be clearly reflected in his selection of the subjects to which he seeks to apply such analysis.

The conception of political theory as an expression of a society's

political values must, of course, be qualified by the undeniable fact that by no means all of the political values of all the individuals and groups in the society will thus be manifested. But when a political value is not articulated in terms of political theory it probably is not yet widely enough held or intensely enough felt to be a significant influence on political behavior. Similarly, when a political value *is* widely enough shared and intensely enough felt to be significant, it *will* be articulated in terms of the society's political theory. Therefore both the political values directly expressed and those reflected in the type of subjects and problems selected for investigation and theorizing are important clues to the understanding of a society's political behavior. To arrive at these clues a knowledge of the society's political theory is essential.

A second aspect of a society which is revealed in its political theory is the image which the members of the society have of the cultural, social, economic, and political situation with which they are confronted. It might seem, at first sight, that what is more important is the objective situation of the people involved, the situation as it would appear to the detached outside observer. But this is not so. Even if objective and complete knowledge of a given time and place were possible, it would be of distinctly secondary importance, at least so far as political behavior is concerned. What is of primary importance, rather, is the interpretation given by the members of a society to their situation, *their* definition of that situation in terms of their previous experiences and of their values. On the basis of this definition of their situation the members of a society formulate their problems and choose those alternatives which to them seem the most desirable or rational. Here too, of course, the interpretations of a society's situation by its political theorists may not include all of the interpretations held by all of its members. But the writings of its various political theorists are undoubtedly sufficiently representative to constitute important basic data for the analysis of political behavior in this regard as well.

A third and final aspect of a society revealed in its political theory is the extent and quality of the empirical knowledge about politics which it possesses. Of course, all available empirical knowledge about politics in a society is not likely to be recorded in writing. Nor will such empirical knowledge as is available necessarily be used as a basis for more rational political behavior. Yet it is undeniable that most available empirical political knowledge *has* been recorded and that such knowledge *has* tended to affect political behavior in the direction of greater political rationality. The question, therefore, of how much and what aspects of a society's political reality are the subject of empirical knowledge is a vital one not only for the political theorist but above all for the student of political behavior. And in order to answer this question, a basic source of data must be the writings of that society's political theorists.

The Relevance of Modern German Political Theory

In examining the development of modern German political theory this study seeks, firstly, to make available to the English-speaking reader selections from the works of a number of German students of politics which, outside of Germany, have remained almost completely neglected. While the political ideology of National Socialism has been the subject of many excellent discussions, the political theorizing by Germans about the situation which culminated in the rise of Hitler has received almost no attention whatever. The attempt to fill this gap in our knowledge, therefore, would require no other justification than the obvious desirability of scholarly completeness. Furthermore, since of all Western societies it has been in Germany that Western-type political institutions and processes have undergone their most difficult trials and may well do so again, an acquaintance with the work of the scholars who sought to understand and theoretically to depict this problematical German political reality would seem to be of value not only for the student of political theory but for the specialist in comparative social and political institutions as well.

While the first purpose of this study is thus to make available a representative sample of an heretofore largely neglected body of modern German political theory, its second and no less central purpose is to consider and analyze this political theory as an expression of German political values, of the Germans' interpretation of their situation, and of the extent and quality of the empirical knowledge about politics which German society possesses. Among the questions which are implicit in this purpose and which are considered in the pages that follow, are these: Why, in contrast to other Western societies, has political theory as a separate intellectual and academic discipline been almost nonexistent in Germany? Why has German political theory placed such a unique emphasis on the concept of the State? What is the significance, in so much of German political theorizing, of the recurring fascination with the analogy of the organism? Why, again in contrast with the experience in Britain and the United States, has German political theory been so intensively preoccupied with questions of scientific method rather than with research of an empirical nature? Taken together, these and other questions involve the basic problem of why the Germans have defined, analyzed, and sought to come to grips with the issues of their society in the way they have, and why they may or may not be expected to continue to do so. It is upon this problem that this study seeks to throw some much needed light. In view of the obvious importance of correctly predicting the Germans' future political behavior, the usefulness of such knowledge not only for the student of political theory but also for the analyst of foreign policy seems self-evident.

As part of its analysis of modern German political theory this study is especially concerned with tracing changes in the *type* of theorizing

to which political reality in Germany was subjected during the period under consideration. The purpose of such analysis is to examine what, if any, relationship can be discovered between these changes in the type of political theory evolved and the known changes which took place in the social, cultural, and political environment in which German political theorists were working. On the whole, German political theory between 1870 and 1933 showed a steadily increasing concern with the ideal of politics as a social science. This development was, of course, by no means unique in the works of German political theorists. But it was in Germany before 1933 that the most rapid progress was made and it was also in Germany that this progress was most short-lived. In attempting to relate this development in German political theory—its motivation, the sources of its scientific ideal, and the roots of its antiscientific biases—to the changing conditions of German society, the author seeks to use the German experience as a case study in what might be called the sociology of political theory. What are the conditions which favor the development of politics as a social science? What are the conditions which impede this development or which cause political theory to be transformed into an instrument of the national or international ideological struggle? It is toward the answering of such questions that this study is intended to make a contribution. Although on the basis of what follows it will not be possible to venture large or universally applicable generalizations, even a small increment in our knowledge on the subject may be of some interest and usefulness. This would seem all the more likely when the society being considered is Germany, in whose history the pendulum has swung from the espousal of what was proclaimed as political rationality in its purest form—*Realpolitik*—to what was accepted as the almost total renunciation of political rationality—the cult of Adolf Hitler.

The Problem of Selection: Period and Theorists

Except for a short, introductory, background survey, the work of German political theorists presented and analyzed here was produced between 1870 and the present. Since German society did not achieve national status until 1871 and since, in the authoritarian, dynastic states which comprised the German cultural area previous to that time there was developed comparatively little theory addressed specifically to problems of politics, this procedure seems considerably less arbitrary than might be the case if the subject being studied were the political thought of such countries as Great Britain or France.

A peculiar problem in discussing German writings on politics derives from the fact, already alluded to, that political theory as an intellectually and academically established discipline is hardly to be found in Germany. Rather, German political theory, to the extent that it exists in fact though not in name, comprises a largely implicit and uncoordinated convergence

of works from the fields of history, philosophy, geography, economics, law, sociology, and general literature, with only a small handful of scholars having done research and written as political theorists proper. Since 1945, it is true, this situation has gradually been changing. With American encouragement and financial support a number of German universities and other centers of higher learning have added to their faculties special institutes and professorial chairs concerned explicitly with political theory as such. As encouraging as this development would appear to be, however, it remains a fact that academically, socially, and in their research, the status and orientation of the men who have been appointed to these new facilities continue to be primarily those of philosophers, historians, and, most commonly, jurists.

Sources

The political writings which are presented and analyzed in these pages are drawn from two principal sources: the relevant periodical literature and the standard texts and other monographs in the related fields. Of the periodicals used, heaviest reliance was placed upon the following: (1) The *Archiv für Sozialwissenschaft und Sozialpolitik,* published from 1885 until the advent of National Socialism by the members of the internationally known *Verein für Sozialpolitik* and revived after 1945 by their survivors. Under the editorship of men such as Max Weber and Werner Sombart, this has been the German social science journal par excellence. (2) The *Archiv des öffentlichen Rechts,* the professional organ of the teachers and students of public law, published since the 1880s. (3) The *Zeitschrift für die gesamte Staatswissenschaft,* published from the 1850s onwards. (4) The *Zeitschrift für Politik,* published between 1907 and 1933 as the only German professional journal dedicated specifically to the study of concrete and theoretical problems of politics. (5) The social-democratic, politicocultural journal, *Die Gesellschaft,* published between 1924 and 1933. (6) Finally, as a guide to German political theory since 1945, the politico-literary magazines, *Frankfurter Hefte* and *Die Gegenwart,* and the bibliographical journal, *Politische Literatur.*

On the basis of an intensive reading of this periodical literature it was possible to select a core of some forty monographs, dealing with law, history, geography, sociology, politics, and the social sciences generally. These, judging from the frequency and extensiveness with which they are referred to and discussed in the journals, represent the principal works concerned with politics by the accepted authorities in the various fields covered. They include the writings of such men as Gerber, Treitschke, Gierke, Georg Jellinek, Richard Schmidt, Hugo Preuss, Walther Rathenau, Max Weber, Karl Haushofer, Hans Kelsen, Carl Schmitt, Rudolf Smend, Hans Freyer, Hermann Heller, and Adolf Grabowsky. It is the analysis of these works which comprises the body of this study.

CHAPTER TWO

The Background of Modern German Political Theory

In attempting to understand modern German political theory and the circumstances and problems of its development it is necessary to begin with reference to a well-known and basic fact: the German cultural area, for centuries divided into a large number of politically authoritarian and socioeconomically static principalities, did not achieve national political status until 1871. As long as there existed in Germany no national political institutions and no apparent prospect of developing them, there could be few national problems to which political analysis might be oriented. As long as political decisions were generally accepted as the responsibility of the dynastic ruler and his personally chosen administrators, and were defined and enforced by them, the development of popular participation in politics, which would seem to be a precondition for the scrutiny and evaluation of the process of government, inevitably remained seriously inhibited. Twice, it is true—in 1807 and in the late 1840s—there briefly existed the hope that independent action by the citizenry might bring about political democracy and national unification. Both of these occasions were marked by a brilliant, if short-lived, development in political theory. For the rest, however, this area of thought in pre-Imperial Germany was almost completely overshadowed by philosophical speculation. In seeking to rationalize and compensate for their impotence in the face of frustrating political reality, German writers evolved a heritage of heroic politicocultural fatalism which has haunted German thinking about politics to this day.

Apolitical Humanism

One aspect of the pre-Imperial politicocultural heritage which both expressed the Germans' sense of frustration at their country's political condition and helped to make that condition even more insurmountable was what has been called the tradition of apolitical humanism. This philosophy and posture of intellectual adjustment to the world centered about the ideal of disdaining matters of politics as petty and vulgar and, as a substitute, prescribed as man's highest fulfillment the private literary and aesthetic contemplation of what were defined as timeless and uni-

versal values. The devotion with which the educated elite of the pre-Imperial German principalities abandoned itself to this ideal varied directly with the degree of helplessness which its members felt in the face of the political reality about them. During the last decades of the eighteenth century, for example, the desire for national unification was reaching a climax. At the same time, however, the brilliant outburst of German intellectual activity which marked this period, known as *Sturm und Drang* (Storm and Stress), expressed itself almost entirely in the realm of creative literature. As if to admit and explain the evasion of the political which this exclusive preoccupation with the aesthetic involved, the writers concerned proclaimed their goal to be the highest of virtues, *Weltbürgertum* (world citizenship), the alleged transcending of things material and political to what was defined as the noblest plane of human thought and activity—culture. Thus in 1801 the poet Schiller told his countrymen that their dignity consisted of

> an ethical greatness, which lives in their culture and in the character of their nation and which is independent of their political fate . . . Eternal disgrace to the German who does not recognize his blessings as a German and a human being and who envies the Britisher his treasures and the Frenchman his luster. He trafficks with the worldly spirit. He should realize that his role is the greatest: as he lives in the middle of the peoples of Europe, so he also represents the seed of humanity; whereas the others are merely the blossom and the leaf.[1]

By thus making a virtue of what unfavorable social and political circumstances seemed to dictate as a temporary necessity, the pursuit of this apolitical humanistic ideal by the German cultural elite had the effect of worsening these circumstances even further. This philosophy and pose of political escapism continued to characterize the orientation of large numbers of the German educated classes even after 1871. Indeed, it has continued to do so to the present day. The nature of the circumstances in the face of which political participation has been renounced, has, of course, varied from period to period. The net effect, however, has remained the same: a holding back or diversion of much-needed intellectual resources both from practical politics and political theory.

Political Romanticism

Another tradition which, along with the apolitical humanistic, was fixed in the German politicocultural heritage during the century preceding Germany's achievement of national statehood, was that which has been broadly called political romanticism. Based upon early and crude versions of the assumptions of the much-discussed German historicist approach to the understanding of man and his development, German political romanticism achieved its first great intellectual influence in the decades after 1815. Like the humanists, the writers of this

stamp were intensely concerned with the creation of a German national state. Unlike them, however, they were essentially pessimistic. Having experienced the post-Napoleonic restoration of authoritarianism and particularism, they not only despaired of ultimately building a united and free nation but went so far, at least implicitly, as to deny altogether the efficacy of planned rational action for the achievement of their national political goals.

The political romanticists sought to rationalize their helplessness in the face of concrete political reality by means of an allegedly scientific philosophy of history. According to this philosophy, man's experience in the world was to be viewed as a grand unfolding of the spirit or essence of world history, the *Weltgeist*. This essence of world history, or *Weltgeist*, was held to express itself on the highest level through the essences of the world's various peoples and cultures, or *Volksgeiste*, and these, in turn, through the *Geiste*, or essences, of the various individuals who belonged to these peoples and cultures. Like all social, cultural, and political developments, this unfolding of the *Weltgeist* through its various concretizations and their interaction was understood to occur according to the principles of what Hegel described as the process of the dialectic: thesis, antithesis, and synthesis. Although, therefore, man might interpret and adjust to the workings of this historical logic, its final outcome was destined to remain inaccessible both to his systematic empirical understanding and to his control.

Besides offering the educated elite of the pre-Imperial German principalities a rationale for their practical political impotence, this metaphysical theory of the dialectical unfolding of the *Weltgeist* served a second significant purpose. Since the German geographical area lacked the protection of national political status and was therefore felt to be in serious danger of foreign assimilation and absorption, this second purpose was to provide the German *Volk* (people and culture) with a mystique that should assure the survival of differentiated German collective solidarity even without the benefit of national political institutions. Thus the German people and their culture were conceived of in such a manner as to make them as incompatible as possible with the values and ways of life of the rationalistically oriented national societies which surrounded them. Whereas in the comparatively well-integrated society of Great Britain, which had securely existed as a nation for several centuries, the dominant politicocultural ideology was the Lockean one of the rational behavior of autonomous and contractually associated individuals, the ideology which was to provide a common ideal for the Germans was that implied in the concept of *Gemeinschaft*, or community. Whereas the implied purpose of the Lockean ideology was to provide inspiration for the individual's struggle against centralized political authority, the ideology of *Gemeinschaft* was intended as a substitute for such authority. It therefore envisaged the Germans not as autonomous, rationally associating individuals but as intuitive participants in an organic, stable

sociocultural community, hierarchically organized and composed of loyal and instinctively self-sacrificing Teutonic members who faithfully expressed in their actions the German *Volksgeist.*

Merely to condemn these concepts and theories, as Anglo-Saxon writers have often tended to do, is to miss much of their sense and significance; for as alien and distasteful as they seem here and now, they were very much the product of, and a response to, the German situation of the period. Unfortunately, these concepts and theories have remained an integral part of the German politicocultural heritage to this day and have demonstrably exercised the profoundest effect upon the Germans' thinking about politics. By providing an always available and allegedly scholarly logic for a sense of German cultural apartness and for a conception of the inner springs of political action as ultimately beyond planned control, this political romanticism has injected a tradition of political futility into German society which has done much to discourage efforts by Germans empirically to formulate their political problems and to try rationally to come to grips with them.

The Empirical Analysis of Baron von Stein

Although the dominant approach to problems of politics in pre-Imperial Germany was in terms of the politicocultural traditions of apolitical humanism and political romanticism, there occurred two episodes during this period on the occasion of which the empirical investigation of politics in general and of the German political situation in particular enjoyed a brilliant, if short-lived, development. The historically earlier of these episodes centered about the efforts of the Rhenish aristocrat, Stein, "to build a nation through reforms." After the military destruction of Prussia in 1807 and the peace of Tilsit, which left that state only half of its former territory and population, Stein had been imposed upon the king of Prussia by Napoleon, who mistakenly thought him to be an agent of French ideas and influence. Stein was, indeed, a reformer as Napoleon had suspected, but he was also a nationalist and his reforms were conceived with the aim of creating a democratic Germany which might at last assume and maintain the status of a first-rate national power.

Although there were, of course, many others in the German states at that time who shared Stein's national objective, there were few who were willing to undertake the task of political education and democratization which he held to be the first precondition. "The Prussian State," he wrote after the military collapse, "has no constitution; the supreme power is not shared between the sovereign and the representatives of the people. It is a very new aggregate of many individual provinces pieced together through inheritance, purchase and conquest."[2] If it was to survive, he insisted, and if it was to be possible to build a German nation around it, one had to recognize that

Participation of the people in legislation and administration creates devotion to the constitution, an informed and intelligent public opinion about national affairs, and the capacity, in many citizens, to contribute to the conducting of these affairs. History teaches that there are many more great generals and statesmen in countries with a free constitution than in those which are despotic.[3]

Because of the lack of organized political initiative among the German peoples, Stein concluded that the way for democratic national reform would have to be opened from above, but in such a way as to encourage the maximum and earliest possible participation by the people themselves. For this purpose he proposed a broad program of municipal reforms. According to Stein's conception of this program, the giving of self-government to Prussian municipalities was to be merely a first step; it was to be followed shortly by the introduction of democratic institutions at the provincial level and, thereafter, by the erection of a statewide system of representation. Once this step was accomplished and extended—as he expected it would be—to the other principalities, Germany would at last be in possession of a national government of and by the people.

Stein's municipal reforms were, indeed, enacted. Less than a month later, however, he was dismissed from office. Only the desperate affairs after the defeat of Jena had induced the king and the Junkers to allow the idea of reform to be entertained. Once the situation had been restabilized, traditional authoritarian, dynastic, and particularistic reaction rapidly reasserted itself. And once the German Confederacy of 1815 had re-established the authority of the old monarchies, leagued under Metternich's leadership for the purpose of preventing national self-determination in the Austrian Empire and frustrating liberal democratic movements in all of central Europe, further reform, unless by the initiative of the people themselves, became impossible.

Although Stein's municipal reforms, which were never revoked, constituted at least a brave first step in the direction in which he believed German society would have to travel, his greater significance lies in the manner in which he approached matters of politics. As a man who had the courage to undertake a frank and penetrating empirical diagnosis of the German social and political situation, at a time when the majority of his countrymen remained bogged down in political metaphysics, he has been an inspiration to empirically minded German students of politics to this day.

The Empirical Politics of the Liberal Intellectuals

The one other episode in pre-Imperial Germany which was the occasion of a considerable development in the empirical study of politics was the movement for a unified, democratic Germany carried on between 1815 and 1849 among the liberal intellectuals of the various German states. Operating largely with the universities as their base, these liberal mem-

bers of the German educated classes opposed the *status quo* on two principal counts. In the first place, they sought to give to German humanism a concrete political expression, to incorporate it in liberal democratic constitutions and representative political institutions. In the second place, as was Stein before them, they were determined finally to bring about Germany's long-delayed national unification.

As the German liberal intellectuals saw it, their goals of constitutional democracy and national unification could only be realized by one of two alternatives. Either, on the one hand, they would have to foment, organize, and lead simultaneous popular revolts in the German states in order to remove the dynasts and their supporters, or at least to force constitutionalism and subordination to a national regime upon them; or, on the other hand, they would have to persuade the dynast of the most powerful German state, Prussia, to become the champion of the liberals' objectives and use his power to secure their realization by whatever action against the remaining states and their rulers might be necessary. The former of these alternatives, however, was rejected, first, because it was feared that the German peoples were politically too fragmented and passive to make possible a successful revolt, and second, because the liberal intellectuals, wanting nothing more than a constitutional monarchy with a restricted, middle-class suffrage, feared the more extreme radicalism that a revolution might release almost as much as did their conservative, particularistic opponents. The course of action to which the campaigners for a national constitution therefore turned was that of persuading the king of Prussia to champion their cause. Even when, in 1848, widespread popular uprisings all over Germany offered them the prospect of using force to achieve their ends, the liberal intellectuals refused to swerve from their adopted plan. Rather, they assembled from all over Germany in Frankfurt's *Paulskirche* to draft a national constitution. When, after many months of debate, an acceptable version of this constitution had been agreed upon, the convention voted 290 to 248 to invite King Frederick William IV of Prussia to become united Germany's first constitutional monarch and, with the liberals' blessing and assistance, to enforce the new regime throughout the remainder of the country.

Had the Prussian king accepted the liberals' moderate demands, it is safe to say that the fate of German society since that time would have been a very different one. But he did not. The crown which a Hohenzollern could accept, he replied, was not a crown created by what he termed a revolutionary assembly. If the ancient crown of the German nation, which for forty-two years had lain idle, was to be conferred on anyone, he insisted, it ought to have been conferred by himself and his equals, the other princes. Thus, with one blow, the liberals' long-planned and conciliatory bid to create a constitutional German nation was reduced to nought. Robbed of its confidence and its popular support, and subjected to a period of determined suppression, German political liberalism never again recovered.

Despite its political failure, however, this German liberal movement has been of great long-range significance. For one thing, it occasioned what were among the first systematic theoretical as well as empirical studies of politics to appear anywhere in Europe. Among the contributors to this embryonic political science were such men as Roscher, Mohl, and Dahlmann, the latter the author of the well-known *Politics, on the Basis of the Foundation and Measure of Things as They Are*, first published in 1835. Second, this liberal movement constituted the first time in German history that responsible men from all parts of the country had come forth with a frank, political orientation, had sought empirically to understand what their political situation involved, had attempted rationally to formulate their problems, and had worked for the solution of these problems with both dedication and patience.

The Political Failure of German Liberalism

Unfortunately, the solid efforts of the German liberal intellectuals for a democratic national German state notwithstanding, it remained a fact that the fruit of their political theorizing and of their political action was failure. What made that failure the more significant was that where they and their methods had proven powerless, the dynastic manipulation of diplomacy and force employed on behalf of the Prussian king by Bismarck brought spectacular success. The result was that instead of a national constitutional monarchy won by popular political participation, the new Germany became an imposed federation of authoritarian principalities. Thus, in submitting to the leadership of Bismarck, the Germans were purchasing the realization of their age-old dream of national unification at the sacrifice of responsible, democratic constitutionalism. This meant, first, that the new nation was not based upon a free and spontaneous political integration of the various groups and classes in German society but, rather, upon the admission by these groups and classes of their political powerlessness and upon their submission to a dynastic chancellor's intuitive policies of political suppression and economic and social concessions. Second, it meant that in the German political heritage, national success and glory were not to be associated with democratic political action but with the strong hand and determined will of the inspired political leader. And it meant, finally, that at least for the period immediately following, the political elite which was identified with ultimate national political decisionmaking was not that of the elected amateur civilian politician but that of the dynastic-military aristocrat. Although liberalism in Germany was by no means destroyed by these circumstances, its expression, henceforth, was restricted largely to the nonpolitical.

With the creation of the Empire the majority of German liberal students of politics thus took one of two courses of action. Some of them turned away from questions of politics and government altogether and

occupied themselves in the fields of philosophy and literature. The remainder, won over by the fact that German national status had been achieved at last, however regrettable the price, accepted the new system and set about to liberalize and serve it as theorists and experts wherever its authoritarian arrangements permitted, which turned out to be chiefly in the fields of law and social and economic policy. It was in this manner that, by 1870, the study of politics in Germany had disintegrated into a number of academically and methodologically separated and essentially technical disciplines in the service of the dynastic *status quo*.

CHAPTER THREE

Political Theory in Imperial Germany

The Conceptual Separation of State and Society

One of the most significant expressions of the atrophying of German political theory which followed the political defeat and abdication of liberalism in Germany in the events leading up to 1870 was the conceptual division by German intellectuals of sociopolitical reality into two separate analytical aspects, *Gesellschaft* (society) and *Staat* (the state). The former was defined as encompassing those areas of individual and social life which were free, private and unrestricted; the latter, in contrast, pertained to those aspects of reality which were subject to the authority of government. Since the state, according to this conceptual scheme, was understood to consist essentially of laws, its study was held to fall almost wholly within the domain of *Staatsrechtswissenschaft,* or public law. Society, on the other hand, was conceived of as being subject to two types of disciplines. To the extent to which the state did not impinge upon it, it became a matter for research and theorizing by what came to be known and academically accepted as *Gesellschaftswissenschaft,* or the science of society. To the extent, on the other hand, to which it was involved in regulation by the state, society became the subject of a number of specialized, socioadministrative sciences called *Staatswissenschaften,* or sciences of the state.

This conceptual separation of state and society and the academic developments based upon it were initiated by a number of liberal intellectuals, including Robert von Mohl and Lorenz von Stein, for two principal reasons. On the one hand, as Reinhard Bendix has written in his excellent study of the beginnings of German sociology, "The demand that society be made a subject of scientific inquiry arose . . . in conscious opposition to socialism. As such it was an attempt to solve the problems which this radical approach had brought to light on the basis of a scientifically acquired knowledge concerning social problems." On the other hand:

> Stein had designated it as the function of the new science of society to give recognition to the human personality in the analysis of the economy and the state and to discover the social laws governing society . . . Thus the traditional concern of German classical philosophy . . . with the individual person-

ality [humanism] was assured: the state itself was made the guarantor. And although it may appear to us in the light of recent developments as a case of unparalleled blindness, it would be a misunderstanding both of Stein and . . . those who followed him to disregard or discount their concern with the welfare and freedom of the individual. In this respect they stood in the tradition of German classical philosophy watered down though it was by their attempts to combine it with the interest of empirical social science and the opposition of the middle classes to the rising labor movement.[1]

The isolation of the specialized study of society from the broader field of politics brought with it at least two great advantages. First, it led to the development of administrative sciences (*Staatswissenschaften*) which in their sophistication undoubtedly surpassed those of any other country at that time and which, indeed, contributed substantially in the areas of social and economic policy to liberalizing the otherwise harsh Bismarckian order. Second, it opened the way for value-free German sociology to which, especially as it culminated in the work of such men as Max Weber, much of our contemporary social science is heavily indebted. On the other hand, however, as far as the development of political theory was concerned, the division of the study of what since Aristotle had been called *politics* into public law, theoretical sociology, and the various so-called state sciences—the proponents of each of which firmly disavowed all interest in the political—was disastrous. The *Staatswissenschaften*, despite the high caliber of their scholarship and their fundamentally liberal orientation, remained expertises in the service of the authoritarian-dynastic regime of Bismarck. German theoretical sociology, while it was laying the groundwork for great strides in the future, did not begin to be integrated with work done in other fields or focused upon an appraisal of German society and politics in a truly political-science sense until the 1920s. In the meantime, German students of public law, claiming for *Staatsrechtswissenschaft* sole relevance for the study of the state proper, were able to abandon themselves to a systematization of legal relationships which was as oblivious of concrete sociopolitical reality as it was formalistic.

Staatsrechtswissenschaft, State-Person, and *Rechtsstaat*

The generally acknowledged father of the theoretical legal approach to the study of the state in Imperial Germany was Carl Friedrich von Gerber. As early as 1865, in the preface to his volume *Grundzüge eines Systems des deutschen Staatsrechts*, Gerber had written of "the pressing necessity for the erection of a scientific system in which the individual forms exhibit themselves in the development of a unitary basic idea." Rupert Emerson, in his survey of Imperial German jurisprudence, describes Gerber's purpose as follows:

> The new jurisprudence was to be a far more rigid one than any that had gone before it. From it were to be excluded all elements that could not be

fitted into the concepts of public law in their development from the basic idea. Foreign matter, such as politics or political theory or private law concepts and methods, was to be wholly banned from the new *Staatsrechtswissenschaft*. The purpose of the new school was to be the conceptual ordering of the valid law of the particular state . . .[2]

Central to this new systematic juristic positivism was the concept of sovereignty. It was in regard to this central concept that the double purpose of the *Staatsrechtslehrer* emerged most clearly. On the one hand, they were determined to provide the Imperial political order with an allegedly nonpolitical, systematized legal foundation; on the other, they were attempting to conceive of this legal foundation in as liberal a fashion as they held to be compatible with the state's political stability. Under the traditional dynastic absolutisms the monarch had possessed the sovereignty of the state in his own person, and his relationships with his subjects had been of an essentially private nature. During the 1830s, in response to the liberal movements in the German states, these relationships and the conception of the locus of sovereignty had begun to be revised. Nowhere had the change progressed so far as to substitute popular sovereignty for that of the dynast; but, on the other hand, neither had the absolute sovereignty of the latter remained intact. In 1837, for example, the jurist Wilhelm Eduard Albrecht suggested that the state be conceived as above the ruler as well as the ruled and that this be done by postulating as the basis of public law the concept of what he called *die Staatsperson*, the state-person. He sought to justify such a development on the grounds that, in contrast to earlier periods, people were coming to think of the state

> . . . not as an association of men which is designed solely or immediately for the individual interests of those men, be they all or many, or even individuals, notably the ruler, but as a Commonwealth, as an institution, standing above individuals, which is dedicated to ends which are by no means merely the sum of the individual interests of the ruler and his subjects, but constitutes a higher collective interest.[3]

This concept of the state-person was taken over and developed by Gerber, his principal disciple, Paul Laband, and the majority of the Imperial jurists. The essential characteristic of the state-person, for these students and teachers of *Staatsrechtswissenschaft*, was its power to will and thereby to rule. Their only task, as they saw it, was to deduce how the many concrete relationships involved in the new Empire were to be defined legally and how the theoretically absolute power of rulership of the state-person was legally to be limited. In this process of deduction the *Staatsrechtslehrer* were inspired by the traditional German conception of the *Rechtsstaat*, the state according to rights, the central idea of which was that the achievement of the state's ends, whatever they might be, was to take place within the forms and limits of law.

Against charges that they were serving as the supporters of authoritarianism, these German academics pointed out that their central concepts

—the state as above both ruler and ruled, and the idea of a government of laws rather than of men—were essentially liberal. At least in theory, this could not be denied. In effect, however, the state-person concept served only to cloak the authoritarianism of the Prussian crown with an aura of lofty neutrality, which made it all the more inaccessible to empirical examinations of the actual distribution and employment of political power. Even into the days of the Weimar Republic, this concept of the state-person, and the mystique of the all-powerful and impersonal state which it implied, tended to divert the Germans' attention from the fact that the administration of the state was very much a political as well as a constitutional matter. This contributed substantially to undermining the Germans' confidence vis-à-vis the state and to weakening their sense of personal responsibility for participating in and scrutinizing the political decisions that were made in its name.

The political implications of the concept of the *Rechtsstaat*, however it was intended, were similar to those of the fiction of the allegedly neutral state-person. As Ruggiero has written in his history of European liberalism

> . . . the drawing of this legal circle around individuals and social groups, in which the *Rechtsstaat* consists, depends essentially upon a political view of the state. A state may be a legalized system of oppression; a governing class like the German landed aristocracy may practise self-government to the detriment of the other classes; and then what becomes of guaranteed rights? They are inseparably connected, though not identical, with the political ideas inspiring the revolutionary declarations of the rights of man, and may be systematized by a complex legal organism, but cannot be created out of nothing. The mistake of German legal science is that, wishing to make rights an autonomous reality, it makes them an abstraction, something unreal: the true reality of right lies in its connection with all the activities of a nation's historical life. Hence the "State of Rights" . . . taken by itself, is only an empty form.[4]

The conception of the Imperial German state as a *Rechtsstaat*, therefore, did not alter that state's politically authoritarian nature. On the contrary, as with the theory of the state-person, it encouraged the uncritical acceptance of the *status quo* among German academics; it undermined the effectiveness of such politically liberal forces as still remained in Germany; and it diverted such political awareness as existed away from empirical examinations of the structure and decision-making process of the state and directed it almost exclusively to a contemplation of legal concepts. Discussing the intellectual influence of this formal legalistic preoccupation and its consequences for political theory in Imperial Germany, the well-known German jurist, Heinrich Triepel, wrote in 1927:

> Hardly a single one of us older men did not begin, at least, in the captivity of the Gerber-Laband school . . . The interest of this school in public law problems is wholly confined to the analysis of public law relationships through the determination of their "juristic nature" . . . Such an analysis amounts to nothing more than the manipulation of the logical elements of which the concept of a legal institute is composed. Every teleological consideration is tabooed,

since the purpose which a legal institute is to serve is irrelevant to its existence as a concept. All political considerations, therefore, since they involve purpose, must be ignored . . .

The admirable sophistication which is revealed in the writings of the Gerber-Laband school will astound future generations, but they will think more skeptically of the relationship between effort expended and results achieved than did the contemporaries . . . As late as 1913, Anschütz [Gerhard Anschütz, a first-line Imperial *Staatsrechtslehrer]* refused to recognize Prussian hegemony in Germany from a juristic point of view, even though he conceded that it was an historical and political fact. From the position of the juristic school this was quite consistent, since it had not found a way of fitting in the fact of this hegemony as a legal concept.[5]

Sozialpolitik, Academic Socialism, and the Authoritarian State

Among the followers of the *Staatswissenschaften*, or state sciences, those whose work is of most direct relevance for the study of political theory in Imperial Germany were the students of the discipline known as *Sozialpolitik*, or social policy. For the most part professors of economics and administration, and members of the famous *Verein für Sozialpolitik*, these *Staatswissenschaftler* were concerned primarily with the impact of industrialization upon the existing structure of society and with economic and social legislation which would help cope with the changing situation. By the implication of their research selection and the general orientation of their work, these scholars, even more clearly than the *Staatsrechtswissenschaftler*, occupied a paradoxical position, simultaneously conservative and liberal.

On the one hand, as members of the *Verein für Sozialpolitik* and as "academic socialists," as they were popularly called, the *Sozialpolitiker* seemed to constitute German counterparts of the British Fabians. Indeed, their association, or *Verein*, had been founded more than a decade before the Fabian Society, and the social and economic ideals of the two groups were very similar. On the other hand, because they operated within an authoritarian state to which, at least until World War I, they accorded implicit loyalty, the *Sozialpolitiker* differed from the Fabians in one basic respect. The ultimate purpose of the Fabians' elucidation of social problems was to provide intellectual leadership and a specific program of reform for a labor movement which would, by its own political power, be able to remedy the injustices upon which the Fabian researches had thrown light. The *Sozialpolitiker*, in contrast, were dedicated to serving a regime which considered it a first principle that the numerically strong German workers' party should be excluded from political power both by suppression and, to the extent compatible with the interests and wishes of the other German social and economic groups, by concessions. This principle the *Sozialpolitiker* could not, or would not, question. Thus, while they were inspired by social and economic ideals similar to those of the Fabians, they accepted the authoritarian state-person idea. They

sought to contribute to social reform, not by examining the political foundations of the Imperial order and promoting working-class political action, but by revealing problems and suggesting administrative measures which, by helping to anticipate and meet the demands of labor, would strengthen the authoritarian system.

For a convincing testimony both to the sincerely humanitarian motives of the *Sozialpolitiker* and to their nonpolitical and therefore conservative intent, we can do no better than to read the following survey of their own conception of their work, written in retrospect by Gustav Schmoller, the man who played the largest part in founding their *Verein für Sozialpolitik.*

> In the first days of October, 1872, a number of men of all parties gathered in Eisenach for a conference on the important social questions of the day—factory legislation, trade unionism and the housing problem. It was from this meeting that our society developed . . . The German Empire had been established: for the first time the German economy was operating on a scale so as to win recognition by those of Western Europe; a new social structure was resulting from the tremendous technical and economic advances; new social problems were demanding attention; the modern working classes were becoming aware of themselves. New legislation was being written at a rapid rate, but the German was still hounded by the narrow-minded, individualistic provincial prejudices and traditions of times past. New ideals and new arrangements and institutions had to be developed.
>
> One expression of this ferment was the formation of the *Verein für Sozialpolitik.* Its members took their stand between those elements, on the one hand, which had grown out of the Radicalism of the Forties and Fifties and inclined to the destruction of the whole existing order, and those, on the other, which optimistically and complacently tried to deny the working class problem and saw the solution to all our problems in free competition. They were . . . men . . . who were free of class interest or attachment to exotic economic theories and who believed in the possibility of social as well as political progress. They were determined to work for such social progress by helping to build the necessary reforms into the order which already existed.
>
> . . . The job to which they dedicated themselves was solely to enlighten, to reveal the facts . . . to bring to all parties and classes a better knowledge of the social situation and to pave the way for justified practical reforms . . . We never desired basically to alter the economy or to suggest a blueprint for some future social order . . . We wanted to stand outside the social classes and their class interests as honest critics of both capital and labor . . . We felt confident that from the fermenting struggle of the times there would issue a new and higher social harmony.[6]

In other words, in spite of their admirable concern for social reforms and the high caliber of their research, the students of *Sozialpolitik,* like the learned *Staatsrechtslehrer,* were essentially technical specialists who consciously evaded the political aspects of the reality with which they were concerned. The work of both, it must be admitted, was invaluable to the operation of the Empire; the systematization and interpretation of the law and the formulation and analysis of social and economic problems preparatory to legislation were jobs that had to be done. But this still did not constitute political theory.

German society, having at long last achieved nationhood, possessed probably the most erudite legal, social, and administrative scientists in the world. What it needed most of all, however, as a retrospective consideration of the erratic, irresponsible, and fateful domestic and international decision-making of its highest authorities would seem to demonstrate, was a broad, synthetic political study, dedicated to the task of empirically investigating and evaluating the nation's political structure and operation. But this it did not have.

Significance of the Neglect of Political Theory

A definitive analysis of why the main currents of the academic study of public affairs in Imperial Germany openly and implicitly renounced all political evaluation and the carrying out of research on the basis of which such evaluation would have been possible could not be undertaken within the space available for this study, even if the author were equipped to undertake it. Besides the circumstances already pointed out, however, at least one additional outstanding fact should be noted. That fact is that German scholars felt that the Empire, to which they were all wholeheartedly devoted, was based upon a compulsory subordination of politically unreconciled and unintegrated groups and therefore could not be left to the fate of free politics or subjected to a frank examination and evaluation of its political foundations and of its decision-making process.

This lack of confidence in any alternative to the Bismarckian system of authoritarian stability underlies the whole intent of the work of the *Staatsrechtslehrer* and their conception of the *Rechtsstaat* based upon the central idea of the allegedly neutral *Staatsperson*. The jurist Gerber, defending his system against the charge of authoritarianism, articulated this sentiment when he pointedly wrote: "A state which is founded upon opinions can only have an uncertain and tottering existence."[7] And the same fear that the Imperial regime's capacity to survive depended upon continuation of imposed discipline, is at the root of the employment of economic and social reformism in the service of the *status quo* by the *Sozialpolitiker*. As Gustav Schmoller put it:

> We in Germany today have a stronger monarchical power than any other country, a monarchical power which, thank God, actually still rules in basic matters. In the last century and this we have effected great and beneficial reforms . . . But for this work the precondition is that the economy and the ultimate power of decision be reserved for the elements of government which stand above the partisan struggles.
>
> The practical job which the political and social sciences and our *Verein für Sozialpolitik* face today seems to me to be to supply the intellectual tools and techniques to strengthen these elements. Our task is to maintain control on behalf of our collective interest of the self-interest of the various classes.[8]

In an important sense, therefore, the evasion of the political by the

majority of Imperial German academics concerned with public affairs was, on the one hand, a matter of unconditional enthusiasm for the new national system and, on the other, an expression of implicit faith in the capability of that system's imposed, dynastic organization and leadership to define and realize the society's values and objectives and to assure its survival. Considering the facts of German political experience previous to that time, this was not a surprising orientation. It was an orientation which, at least in the short run, even seemed plausibly rational: the system was passing the pragmatic test; it seemed to work. The questions, however, which few of the German social, administrative, and legal scientists seemed to be asking were: at what price and for how long?

CHAPTER FOUR

Political Theory in Imperial Germany (Cont'd)

Beginnings of Empirical Political Theory

While the students of *Staatsrechtswissenschaft, Gesellschaftswissenschaft,* and the various *Staatswissenschaften,* in the service of the new constitution and Bismarck's intuitive decision-making, claimed to be adequately discharging what elsewhere was the function of the science of politics, a few of their countrymen began to reconsider the whole problem of political study and its possible development both as a social science and as an aid in analyzing the German Empire's strengths and weaknesses. These men approached the problem from various points of view and, until the outbreak of World War I, remained a very small and unrecognized minority among German academics. Their work, however, forms the only native German bridge between the sterile period of the Empire and the rapid developments of the restless and introspective political theorizing of the Weimar years. As such it deserves at least brief consideration.

HEINRICH VON TREITSCHKE The earliest prominent German thinker of the Imperial period who concerned himself with the need for a return to political theory was the historian Heinrich von Treitschke. In 1859, at the very beginning of the period when the study of politics in Germany was disintegrating into unconnected and specialized disciplines, Treitschke singled out for attack the development of a science of sociology separate from the study of politics. The principal reason for this development, as Treitschke saw it, was the impact of industrialization upon Germany, the resulting disruption of German society, and the absence of an established governmental and political order which could keep the new developments integrated in an harmoniously functioning political system. He wrote:

> The theory that society and the state should be kept apart for separate study could only have been thought up now and in our situation . . . Estates are in process of dissolution and transformation and nobody can predict how it will all end. Industrial progress has created within the shortest time a new class of people whose nature and significance is as yet scarcely recognized. The special interests of the remnants of our aristocracy have kindled in recent times a class hatred which such a highly educated people should have overcome long ago. In a word, state and society in present-day Germany are widely

rent asunder. And just as the lofty idealists of the last century felt compelled to build ideal states, so it is that the contagious common sense of the present feels inclined to construe the momentary present circumstances as normal and necessary.[1]

To recognize and develop sociology as a separate discipline apart from politics, Treitschke feared, would be to admit the permanence of what he hoped was only a temporary inability of the German political and governmental system to cope with and to integrate the social and economic changes which the social system was undergoing. His plea was that the research conducted as sociology be conceived of as part of a broad and synthetic science of politics. The problem was "not to found a new science but to free the study of politics from the last remains of natural-law formalism and to raise it to the level of an analysis of the political problems involved in the existence of a nation."[2]

In order to contribute to the development of such a political science, Treitschke, between 1874 and 1896, lectured on politics at the University of Berlin. These lectures acquired great popularity among educated Germans and were held to constitute the last word in scientific and pragmatic political study. Treitschke's outline of the way he conceived of his subject was, indeed, promising. The study was to be divided into five parts, under the general headings: the nature of the state, the social foundations of the state, the constitution of the state, the administration of the state, and the state in international intercourse. Nor could one find fault with the broad range of materials which he adduced to the execution of his project. The content of his study, however, not only marks Treitschke as very much a captive of his situation; its net effect was to remove the fundamental political issues of the German Empire even farther from empirical scrutiny.

The state, for Treitschke, is throughout his study an abstraction, a lofty ideal, and a power which must remain beyond utilitarian justification and empirical investigation:

> The state is in the first instance power that it may maintain itself . . . On principle it does not ask how the people is disposed; it demands obedience: its laws must be kept, whether willingly or unwillingly. It is a step forward when the silent obedience of the citizens becomes an inward rational consent, but their consent is not absolutely necessary. Kingdoms have lasted for centuries without the inward consent of their citizens . . . What the state needs is, in the first place, what is external; it wills that it be obeyed; its nature is to execute what it chooses . . .[3]

What Treitschke thus offered his listeners and readers was not scientific political theory but an elaboration of the jurists' conception of the state-person and a further rationalization of the fear that the German state as it was constituted could not survive on utilitarian grounds or on the basis of free, democratic political consensus. Instead of calling for the empirical analysis of the relationship between the Imperial social structure and the nation's political decision-making process, for example, he urged

upon his students the virtues of obedience and sacrifice, because, he alleged, history and science showed that these were of necessity the prime requisites of national existence. Treitschke's attitude to war follows; for when are obedience and uncritical sacrifice more gloriously displayed than in wartime?

> Without war there would be no state at all. All the states known to us have arisen through wars. . . . The moment the state calls: "Myself and my existence are now at stake!" social self-seeking must disappear and every party animosity must be silent. The individual must forget his own ego and feel himself a member of the whole; he must recognize what a nothing his life is in comparison with the general welfare. In that very point lies the loftiness of war, that the small man disappears entirely before the great thought of the state; the sacrifice of fellow countrymen for one another is nowhere so splendidly exhibited as in war . . .[4]

In his desire to emphasize the virtue of uncritical obedience to the power representing the Imperial state-person, Treitschke denounced the bourgeois habits of trade, business, and liberal, utilitarian thinking as fundamentally subversive. What the Germans needed to emulate, according to Treitschke, was the ideal of the feudal aristocrat: the man who is trained to obey and sacrifice when the king commands. The Jews in particular, both by temperament and by their business interests the antithesis of the aristocratic-military type, would have to be watched and converted to true Germanism:[5] "There is no room left nowadays for cosmopolitan Judaism," Treitschke told his countrymen, "I see absolutely only one means that we can employ here: real energy of our national pride, which must become a second nature with us, so that we instinctively reject everything that is strange to the Germanic nature."[6]

Having thus defined and given his enthusiastic support to German obedience to the postulated state-person, it remained only to give proof that the actual possessor of the powers which were vested in this state-person was competent to discharge the great and varied responsibilities which were thus encumbent upon him. This Treitschke undertook in a discussion of the monarchical form of government:

> . . . It lies, moreover, in the exalted position of the monarch to see further than ordinary men. The ordinary man surveys only a small circle of real life. We can recognize this especially clearly in the involuntary class prejudices of the average man. There are prejudices of the middle classes and of the learned professions, as well as those of the nobility; they do not see the whole of society, but only a small section. In contrast, it is clear that a monarch will learn to know more of the aggregate of the national life than the individual subject, and that he is in a position to judge the relations of the different forces in a society more correctly than the average man can. This is true above all in regard to foreign countries. The king can judge much more clearly how things stand in the world without than the individual subject can, or even a republican party government . . .[7]

For a more detailed elaboration of Treitschke's ideas, the student of the German Empire can consult the original sources. What should be

clear from this brief examination is that what Treitschke called *Politik* was in fact political metaphysics, dedicated to the support of the Bismarckian *status quo*. If German scholars were going to develop scientific political theory, they would have to do so in spite of Treitschke.

OTTO VON GIERKE Another well-known Imperial German scholar who strongly disagreed with the efforts of the Gerber-Laband school of jurisprudence to exclude all political and sociological considerations from the study of the state was the jurist Otto von Gierke. Essentially, Gierke's program for supplementing Imperial legal formalism consisted of an attempt to define the lawyers' concept of the state-person as a social reality which did not merely consist of an abstract possessor of sovereignty and a multitude of legal subjects, but, rather, was comprised of individuals and groups which were organically integrated in social wholes of which the state was but the most inclusive example. As Gierke set down his position:

> The life of law is only one side, and by no means the most important side, of community life. The science of law must never forget this one-sidedness. It must always bear in mind that the living forces of the various social organisms express themselves outside the area of law, in all the movements of power and of culture in the general community life, and achieve their greatest triumphs independently of law, and even in opposition to law. Legal science must leave it to other sciences to discover the cohesions that exist, and to trace the unities that act, in all this extra-legal sphere. But while the science of law must thus receive from other branches of science the confirmatory evidence which they can give of the reality of the community, it can also make a claim upon them. It can ask that its own account of the legal expression of this reality should be duly considered in any thorough and genuine investigation other than legal.[8]

What Gierke particularly objected to in the work of the standard Imperial German jurists was what he called their Roman-law conclusion that the person, in the eyes of the law, "has only one single characteristic which constitutes its whole being, namely, that it is a subject of the law," as Laband had phrased it in 1885.[9] In such a view, Gierke maintained, the individual was an abstraction with no claim to morality or freedom or any other associations except his legal tie to the state. Moreover, this view implied that it was only the law which held the various independent bearers of rights and duties together in the state, and that apart from this legal relationship neither the state nor its individual subjects possessed any reality. And it implied, further, that within the legal relationship between the subject and the state-person there could be no other intermediate relationships of any reality or relevance. Such a theory, Gierke held, neglected the fact that society existed as a great complex of individuals, relationships, and values, only some of which were legally recognized, but all of which played an important part and had to be taken into consideration if one was to understand what was truly involved in the operation of the state. Moreover, Gierke insisted,

it was by no means merely a legal tie which held the state together. What was at work here was an organic interdependence of all the parts —individuals, groups, and the state alike.

Gierke's general diagnosis of the inadequacy of the Imperial German legal study of the state might well have served as the starting point for a social-science approach to the analysis of German society and politics. As had been the case with Treitschke, however, Gierke's positive contribution fell far short of the quality of his diagnosis. Gierke's interest in the social reality which he held to be the foundation upon which the state rested was, disappointingly, restricted almost exclusively to a consideration of the existence of groups which he postulated as being intermediary between the individual and the state. To foster the recognition of such groups he ascribed to them the qualities of physical organisms, of real group-personality and of will, qualities which, like the existence of the groups themselves, were not the result of empirical investigation, nor conceived of in an attempt to build a more adequate methodology and theory of political science. They were, rather, arbitrary impositions upon the data by Gierke himself.

What appears throughout Gierke's works is that the political scientist in him was always securely subordinated to Gierke the scholar of the German historical school, the lawyer-philosopher who was determined, as he wrote in the preface to the last volume of his *Genossenschaftsrecht,* "to penetrate the new code with a Germanist spirit; to develop its Germanist content upon an historical basis; to foster the growth of Germanism in the future."[10] With this purpose he approached his examination of society with the concept of the *Genossenschaft,* the association of rugged but brotherly Teutons which symbolized to him an ancient tradition of the German *Volk* and suggested the qualities of solidarity, group-personality, and group-will.

It is this same purpose which must be kept in mind in considering Gierke's objections to the a priori conclusions of natural law. What he objected to in these conclusions was their overconcentration upon the postulated autonomous individual and, as a corollary, their assumption of a solely legal relationship between the individual, his fellows, and the state. What such theories ignored, Gierke maintained, was the great role played by group solidarity, solidarity such as that which was exemplified by the old Germanic *Genossenschaft.* At the conclusion of his treatise on *The Nature of Human Groups,* for example, Gierke wrote: "One thing may be permitted to a jurist: he may suggest the moral significance which belongs to the idea of the real unity of the community." He proceeds to maintain that it is only this idea of "real unity" which can produce the belief that a group is of value in itself; "and only the belief that the Whole has a higher value, as compared with its parts, can justify, in turn, the moral duty of man to live and die for the Whole."[11]

Gierke was, indeed, putting his finger on an undeniable fact: autonomous, rational individuals, as Hobbes had pointed out long before,

could enjoy no solidarity save that of subservience to a Leviathan who would protect each from the other. If individuals are to live freely and harmoniously together, they must do so in terms of some commonly held, integrating norms, whether these are envisaged as incorporated in their reasoning faculties (as did Locke) or are conceived as a system of learned beliefs (as in contemporary sociology). Where Gierke erred, however, as did the whole German romantic tradition, was in his conception of such beliefs in terms of a metaphysical, superpersonal entity, a conception which by its very definition was beyond empirical investigation. As Sir Ernest Barker has pointed out:

> Gierke's *Genossenschaft*, with its group-personality and its group-will, is not a psychological tissue, connecting the threads of individual minds: it is a sort of higher reality, of a transcendental order, which stands out as something distinct from, and something superior to the separate reality of the individual. Gierke borrows from Hegelian philosophy rather than from group-psychology; and when he writes that "human group life is a life of a higher order in which the individual life is incorporated," he is in a different world of ideas from the psychologist—a Hegelian world of graded manifestations of the eternal mind . . .[12]

GEORG JELLINEK A third Imperial German scholar of note whose work is of relevance in the present connection was Georg Jellinek, the first jurist in the Gerber-Laband tradition to concede that there were at least two approaches in terms of which the state had to be studied: the sociological as well as the juristic.

> The subject matter of the first is the state as a social phenomenon. It is concerned with the empirically perceivable subjective and objective events of which the concrete life of the state is composed. One usually calls this type of analysis the historical-political. It is concerned with the history of states, their development, transformation and collapse and the social requisites and functions of states as well as their constituent elements and the relations between these elements.
>
> The second has for its subject matter the legal side of the state. Law leads a double life. The one as actual legal practice, as which it is one of the social powers which shape the concrete cultural life of the nation. The other as a content of norms which is designed to be transformed into acts. Law in the latter sense does not belong to the realm of what is, but of what should be; it consists of concepts and tenets which serve not the analysis of what is given but the evaluation of reality . . . It is not the task of jurisprudence to decide the fundamental nature of the state but rather, to order what is given according to set viewpoints for certain purposes and to subject it to evaluation according to the abstract norms of the law. Legal science is thus a normative science, similar to logic, which does not teach us what things are but how they must be thought of in order to make possible a contradictionless perception.[13]

Unfortunately Jellinek only went part of the way: he insisted that the study of the state in terms of these two approaches would have to be kept strictly separate; he did not attempt to develop a methodology for integrating his sociological insights with his legal studies. His work, however, unlike that of Treitschke and Gierke, was a definite first step

in the direction that would have to be traveled if from the formalistic old *Staatsrechtslehre* there was to be developed a theory of politics as such. As constant references to the above excerpts from his well-known textbook, *Allgemeine Staatslehre,* testify, Jellinek remained, even into the 1920s, a powerful inspiration to those jurists in Germany who were struggling to broaden their discipline into an empirical science of politics.

GEORG VON MAYR Another Imperial German student of public affairs who was dissatisfied with the academic and methodological separation between the state sciences and legal science was the Bavarian economist, statistician, and sometime administrator, Georg von Mayr. Mayr developed an approach to politics and a grasp of what would be involved in its study as a social science which was truly remarkable for the time and situation in which he wrote. In a pamphlet, first published at the turn of the century, Mayr pointed out:

> The state sciences, which have come to comprise a wide range of independent disciplines, and the legal sciences as well, belong to the general branch of knowledge called the social sciences. These social sciences include all branches of learning which are concerned with any aspect whatsoever of human social life.
>
> In years past it was in justified reaction against exclusive preoccupation with the immediate operation of government that one began to postulate the existence of societal phenomena which had nothing to do with the state proper. But it was a mistake if one concluded, therefore, that state and society had to be considered and studied as opposites.
>
> State and society are not opposites. Rather, "society," in my opinion, is the most general concept which includes all forms of social life and action and therefore above all the powerful and formally most highly organized systems of human action, the state . . . Man can be an object of study of the natural sciences when he is being investigated as part of the physical world. But man can also be the object of socio-cultural research . . . when the desire is to study and analyze the actions and achievements which result from his unique possession of mind and will . . .[14]

Having thus given his general orientation, Mayr proceeded to outline a suggested grouping of the social sciences for purposes of teaching and research. He distinguished three general groups of subjects: general sociology, special social sciences, and history. Politics or the state sciences, which he considered as one branch of the special social sciences, Mayr envisaged to include such subjects as sociological theory, public administration, comparative government, economics, government, international politics, and law, each of which he broke down for more detailed definition.

In a speech a few years later, also published as a pamphlet, Mayr openly attacked the exclusively juristic approach to politics and the state and pointed out once again that the legal sciences were only one branch of the larger area of the social sciences and should be recognized as such. The sociological approach, Mayr insisted, "by its very nature led to much more extensive valuable empirical and comparative research

than did the standard legalistic point of view." And as regards teaching and research in the social and political sciences in German academic curricula, Mayr made the following criticism and suggestions:

> The state of the integration of the state sciences in German university teaching has varied considerably but in general has been very unsatisfactory. Except where they have been held together as parts of traditional cameralist study, these late children of social science research have for the most part been refused a place of their own and have, rather, been put into the custody of the broad subject of philosophy or tucked in with ancient legal sciences. Neither of these solutions is adequate. In the state sciences as I have defined and delimited them we have a completely unique and independent branch of knowledge which demands the creation of a faculty of its own . . . The development of recent research in the various individual social sciences points to the necessity of this step.[15]

Mayr concluded his treatise with a reference to the possible political implications of the scientific study of politics, a remark which was as perceptive as it continues to be timely: "The lawmaker generally feels a certain hostility towards basic definitions. *Omnis definitio periculosa!* But here the scientist must always have the courage of his convictions. Unfortunately, especially with us, this has not always been the case."[16]

RICHARD SCHMIDT Still another indication that the realization of the need for the development of scientific political theory in Imperial Germany was growing is to be seen in the writings of the well-known jurist, Richard Schmidt. In 1901 Schmidt published a two-volume text with the customary German title, *Allgemeine Staatslehre* (*General Theory of the State*). Volume II of this work comprised the more or less standard treatment of the public-law aspects of the state. Volume I, however, to the consternation of many of Schmidt's jurist colleagues, bore the subtitle "The General Roots of Political Life," and offered an attempt, on the basis of a rather lengthy comparative historical analysis, to develop a broad and empirical awareness of the many societal and political facts which were involved in the political life of individuals and nations.

In 1907 Schmidt became one of the founders and the first editor of the journal *Zeitschrift für Politik*, the title of which indicated the new and unorthodox orientation of its founders and many of its contributors. The spirit in which the new periodical was conceived and Schmidt's personal views on the problems of developing a science of politics are outlined in the long introductory article of the journal's first volume, "Methods and Aims of the Study of Politics."

Schmidt began with the statement that the study and analysis of empirical historical and contemporary political matters "must above all go beyond the aphoristic and essayistic elucidation of individual political problems of the day and proceed to an attempt . . . to develop a larger frame of reference for a systematic methodological integration of the phenomena involved."[17] On the other hand, Schmidt warned against

the danger of too great methodological concern and hesitation which, he said, might make it impossible to achieve any results whatsoever. To objections that any political science frame of reference would involve values and would therefore be scientifically invalid, Schmidt replied that such foci as the military capabilities of a nation, the civil liberties of citizens, the cooperative and harmonious operation of the state, and the assurance of its peaceful and progressive development were indeed based on definite values. This fact, however, as Schmidt saw it, did not in any way invalidate or make less useful the empirical study of the operation of a nation from the point of view of these foci. "The human race," he said, "has always acted in terms of such values and goals . . . even though it is clear that the primacy of questions of the national security of states would immediately disappear if by means of some type of international system of collective security it would be possible to guarantee world peace."[18]

In the meantime, however, Schmidt believed that it was the task of an empirical and systematic study of politics to analyze the problems involved in the country's national and international existence. In particular, he suggested the study of such immediate questions as demands for the reform of the monarchical regimes, the operation of parliament, the functioning of the administrative system, and the administration of justice. "Everyone," he exhorted, "who today addresses himself to the elucidation of these problems without allowing the critical stare of the methodologist to make him nervous will be doing an important and worthwhile job . . . The methodological skepticism of the times will then only serve to make political scientists aware of the need for greater caution and self-control in their work."[19]

In carrying out the kind of political research and theorizing which he proposed, Schmidt declared further, it was always important to keep in mind the question "without what preconditions a nation could not continue to operate, that is, what the requisites are for a nation's capacity to survive."[20] In this connection, he believed, German students of the state especially should remember

> that the qualities of the population, the psychological condition of individuals and their effective living together, is one of the numerous factors upon which the cultural and especially the political capabilities of the nation depend . . . The sad fate that overtook the leading powers of antiquity was largely due to their failure to recognize that in addition to external unity a large complex of political units requires a community of shared values to give it the necessary cohesion to survive.[21]

As Schmidt readily admitted himself, his work toward a methodology and theory of scientific politics constituted only an impressionistic beginning. However, through his studies and associations in connection with the *Zeitschrift für Politik*, he and his younger colleagues did perhaps more than any other group to foster the convergence of contributions from jurisprudence, history, philosophy, geography, and sociology

which in the later Weimar years brought German society a brilliant, although short-lived and unheeded, science of politics.

The Rejection of the Imperial State

By the second decade of the twentieth century, as the precarious stability of the German state became increasingly apparent—aggravated as it was by the incapable domestic and international leadership of William II and his advisers—the desire to get out from under the politically apathetic monopoly of the state sciences and legal formalism ceased being merely an academic matter. Particularly after Germany's involvement in World War I, there developed, at least among a small minority of responsible and politically aware Germans, a determination to challenge the Empire's very existence and to examine its every premise preparatory to reconstructing the whole system. This rejection of the Empire, it is true, did not produce any systematic treatises either in political theory or as regards the problems of scientifically studying political questions; the crisis seemed too immediate and far-reaching for methodological contemplation. What it did produce, however, were a number of appraisals of German history, political institutions, and values such as had never before appeared in Germany and of an astuteness which makes them important even today for an understanding of German society and politics, and thus also of German political theory.

HUGO PREUSS The first of these unprecedented, politically oriented appraisals which we shall briefly consider is that of the jurist Hugo Preuss. Preuss was one of the very few Imperial *Staatsrechtslehrer* who, from the middle eighties until his death in 1925, sought to participate in the political events of his time, both intellectually and practically. In line with his liberal and democratic values, he dedicated one political analysis after another, popular as well as academic, to such issues as the development of a responsible executive, the reform of the Prussian three-class suffrage system, and, above all, the Germans' lack of political consciousness and of how this weakness might be remedied. In recognition of his reputation as a scholar and a democrat he was assigned major responsibility for the drafting of the Weimar constitution. The reader who knows German will find an inclusive collection of Preuss's political works in the volume *Staat, Recht und Freiheit,* published in 1926 with an excellent introduction by Theodor Heuss.[22]

The book by Preuss to which we shall limit ourselves for present purposes is his short volume, *The German People and Politics,* published in 1915. His purpose in writing this book, he said, was to pose some fundamental questions which must be answered whether Germany won or lost World War I. One of these questions, the leading one as it turned out, was why, when the war had broken out, a deep sense of relief had swept through the German people, and why, as the war was progressing,

Germans of all classes were eagerly looking forward to some kind of new and reformed age when it was over. How was one to explain these reactions? In their explanation, Preuss maintained, lay the key to the understanding of Imperial German politics; and this key was to be found

> in the absence, in both our national and international political development, of a great and clear sense of purpose which might have inspired, oriented and united our public opinion. After the establishment of the German Empire this basic deficiency was at first not felt because of the momentousness of the national events themselves, and then concealed by general preoccupation with all manner of incidental developments. But for some time now, this lack of goals has resulted in an oppressively sterile sense of emptiness. Self-preservation and maintenance of what has been achieved is the precondition, but cannot be the sole content of the international and domestic political life of a creative people.[23]

This lack of politically integrating and orienting values in German society, said Preuss, had been evaded and rationalized in various manners. The economic achievements of the time absorbed the attention of a good many Germans and, in the course of the years, political apathy even became a fashionable pose for the successful business man, much as the German man of culture had long looked down upon politics as something altogether banal. Moreover, even those Germans who recognized the weak political consciousness of their countrymen usually dismissed the fact with the thought that politics was simply not a German forte; the Germans had done outstandingly well in music, science, technology, business, and warfare; one could not have everything. But such evasions and rationalizations, Preuss warned, could only lead to catastrophe:

> This should have become evident even to the most unpolitically minded of our people from the powerful and awful events which are transpiring right now. Once the Germans finally assumed the status and role of a nation, the fruitful development of a core of common political values became, not a gift among others, which a people might or might not possess, but a most indispensable condition for its survival as a nation and for its activity as such in all other areas . . . And not even the strongest and most successful military capacity can serve as a substitute for this condition. In the failure to recognize this fact lies the present hour's greatest peril.[24]

Within Germany, Preuss warned, this absence of positive, integrating political values and goals had had the most crippling political results. The rapid development of German business and industry had created economic and social divisions which, when imposed upon the already existing, unreconciled political animosities, had brought about a political stalemate between hostile and uncompromising opponents. In the area of international politics, Preuss added, the results had been no less disastrous. German military capacity and preparedness had been maintained at the highest level in Europe. Yet the decision as to the level of preparedness had been an arbitrary one; it had not been geared to known or predictable objectives. As a result, because Germany had no

defined international political goals which her neighbors might have been able to take into consideration in the shaping of their own policies, Germany's high level of armament had unnecessarily, but quite understandably, been the cause of constant international tension; for, "There is nothing which can be as aggravating and productive of suspicion as an abrupt assertion of power without actual or plausible political objectives . . ."[25]

The remainder of Preuss's study comprised a review of German history in which he sought to demonstrate, first, how authoritarianism constantly frustrated the successful expression of German democratic political action, and second, how German political apathy and inability to organize behind politically oriented values made it possible for authoritarianism to survive and to grow ever more damaging. Unless this chain of general cause and effect was broken, Preuss warned his readers, Germany could not long survive as a nation, whether she won the war or not.

WALTHER RATHENAU The second evaluation of German society and politics which we shall briefly examine is that of Walther Rathenau, industrialist, utopian socialist, statesman, and one of the most penetrating thinkers that Imperial Germany produced. While there is essential agreement between the views of Preuss and Rathenau as regards the weaknesses of the German state, the latter's diagnosis was conceived in considerably broader dimensions. His principal thoughts of interest for the present study are contained in three books published between 1912 and 1917: *Kritik der Zeit, Mechanik des Geistes,* and *Von Kommenden Dingen.*

Rathenau's basic orientation was the conviction that the individual in the Western world, and most of all in Germany, was becoming submerged in an inescapable and inherently authoritarian rationalized economic organization (*Zwangsanstalt*) over which he was losing control, and which was destroying his soul. The logic of this mechanization had fused the whole world together, at least potentially, into a single economic community, a machine whose fuel was property in the impersonal form of capital, and whose sole object, to the extent that it had one, in humanly meaningful terms, was profit. The human being had lost all independence, individuality, higher sanction and sense of effective personal values and responsibilities: his only status lay in the various roles which he performed in the community of production or in the legal and administrative apparatus (the state) which serviced it. What is more, this mechanization had brought about an isolation and degradation of a large section of humanity, the proletariat; and this proletariat's political reaction in terms of organized socialism, with its defensive, me-too claim to a share of surplus profit and economic and political power, was, in turn, only an additional testimony to the bankruptcy of values in terms of which mankind might control the mechani-

zation which it had so brilliantly built and faithfully served. Moreover, even the orientation and sense of dignity and belonging which patriotism offered in times past was being rapidly destroyed: the nonrational elements in modern nationalism must, in the long run, be disruptive of, and incompatible with, the universal process of mechanization. To the extent that nationalism was rational, it only became an instrument through which the mechanization expressed itself. If human beings were to escape the fate of the beehive, Rathenau warned, this process of forced subservience to mechanization and efficiency must be reversed. Somehow the individual soul must be raised above it, must control it, must make it serve human dignity and values. That is the problem with which all of Rathenau's writings were ultimately concerned.

Rathenau, in a letter to a friend, expressed his reaction to the outbreak of World War I as follows:

> We must win; we must win! And yet we do not have any universal sanction. . . How different it was with the claim to unification which gave us strength and justification in 1870! How different were the demands for our existence in 1813! A Serbian ultimatum and a sheaf of confused and thoughtless dispatches! If only I had never seen how things operated behind the scenes. . . Necessity or not, higher authority or not—it did not have to happen this way! . . . Do you know why we are in this war? I do not. . . What can come of it? We have no strategists and no statesmen. . .[26]

Two years later, diagnosing Germany's weaknesses much as Preuss had done, Rathenau wrote:

> For years I had seen the twilight of the nations. . . I discovered its signs in the impudent folly that paraded the streets of our great towns; in the arrogance of materialized life . . . above all, in the deadly sloth of our wealthier bourgeoisie, immersed in business affairs and shunning responsibility. . . I do not believe in our right to guide the destinies of the world . . . for we have not learned to guide our own destinies. We have no right to force our modes of thought and feeling upon other civilized nations, for whatever weaknesses these nations may display, we for our part have not yet acquired for ourselves a will to responsibility.[27]

Why *was* this, Rathenau asked throughout his writings, why did the Germans have no will to political responsibility? The principal reason, he suggested, was that the Germans as members of a nation had never had the benefit of integrating inspiration from transcendental, politically orienting, and politically applicable values. What had always been missing from German political life was a national-universal sense of direction, "aims which are not derived from research and study, but which arise in the mind from a consciously intuited outlook on the universe . . ."[28] For that reason, Rathenau concluded,

> The political future of the country is not a question of institutions but of character. Every statesman of the coming days . . . must realize that the awakening of new moral energies is the fundamental prerequisite to social reconstruction, and that institutions obediently and readily follow human development as the bark follows the growth of the tree. A century ago we became

a nation; fifty years ago we became a state; now by an inward rebirth, we must become a political nation and a people's state.[29]

MAX WEBER We shall examine the work of Max Weber and its significance for the development of German political theory in the next chapter. He is briefly cited here because he too belonged to the group which by the outbreak of World War I had seen through the premises of the German Imperial order and had begun to reject them on grounds both moral and rational. Weber's diagnosis was more empirically focused than were those of Preuss and Rathenau; the essence of what he objected to, however, and the vehemence with which he did so, were much the same. The general purport of his reactions may be seen from the following comments, written down during the early years of the First World War:

> Bismarck left behind as a political heritage a nation without any political education, far below the level which, in this respect, it had reached twenty years earlier. Above all, he left behind a nation without any political will, accustomed to allow the great statesman at its head to look after its policy for it. . . . He left a nation accustomed to submit, under the label of constitutional monarchy, to anything which was decided for it without criticizing the political qualifications of those who . . . took the reins of power into their hands. . . . . . Not a shot would I fire, not a penny war loan would I subscribe to if this were not a national war. If it were only concerned with the maintenance of our state structure, or that we should keep this incapable dynasty and our unpolitical civil service, I would not support it.[30]

The Crisis of German Political Theory

As the preceding survey of German political thought in the Imperial period shows, both the conceptualization of that thought and the eventual realization of its inadequacy for coping with existing political reality were expressions of the German state's basic sociopolitical weaknesses. Politics, as was suggested in the introduction to this study, is concerned with the decision-making which determines what domestic and external public relationships shall be and by whom and for what ends these relationships shall be arranged. In accepting the creation and management of the new German *Reich* by the authoritarian manipulation of Bismarck, the German people, including the majority of its intellectuals, renounced its responsibility both for participating in, and for scrutinizing, such political decision-making. Acquiescing in this relinquishing of political responsibility as the price of the weakly integrated German state's survival, German students of public affairs instead devoted their efforts either to seeking to liberalize the nondemocratic social order by working through the authoritarian Bismarckian administration or to attempting to compensate for the lack of democratic social and political integration by exhorting obedience and harmony in the name of the allegedly politically neutral state-person. The efforts of a

minority of German intellectuals after the 1880s to revive political theory was an expression of their discovery that, from the point of view both of its capacity to survive politically and of its ability to realize basic humanistic values, the German *Reich* was a dangerously precarious structure.

By the outbreak of World War I, this awareness of the weaknesses of the Imperial sociopolitical order and of philosophical and empirical political theory was arousing in some of the more sensitive German students a state of mind that can be characterized as nothing short of panic. But by then it was too late. The only comfort to be found was in looking to the future. The German state would have to be reconstructed in a manner such as to achieve political integration not by imposed authority but by the governmental processes of democracy. The decision-making of the German state would have to become responsive to the wishes of a freely integrated German sociopolitical order. And the German people would have to make politics a matter of their own individual responsibility and their own individual consciences. But the realization of each of these objectives assumed the achievement of the others: between 1870 and 1918 the logic of German political and intellectual developments had been that feelings of insecurity about the stability of the *Reich* had induced a renunciation of political responsibility and a deference to authority. This had resulted in internal and external crises, which in turn had led to greater feelings of insecurity, to which, in turn, the general response had been more devastating demands for obedience and submission to authority. The question after 1918 was whether this circle could be broken. And the index to how that question would be answered, it is here submitted, was to be the condition—in the years that followed—of German political theory.

CHAPTER FIVE

Trends During the Weimar Period

With the loss of the war, the establishment of a democratic republic, and the domestic and international social, economic and political readjustments which thus became necessary for German society, the automatic operation of the allegedly politically neutral state-person could no longer be taken for granted. Although the politically unconcerned specialization of the state sciences and *Staatsrechtswissenschaft* continued to be the dominant approach to public matters, even the most conservative intellectuals found it necessary to engage in at least a minimum amount of re-examination. What is more, there finally emerged a number of German scholars—albeit only a small minority of the total—who sought squarely to face the political problems of German society and to develop a scientific methodology by means of which this task could be carried out. As a result of the work of these men there were developed, by the early 1930s, political theories which in their methodological sophistication have probably remained unsurpassed. It is to this development—brilliant, almost agonizing in its efforts to rise above the crisis of the times, and tragic in its final futility—that we now turn.

Contributions from Political Geography

RUDOLF KJELLEN One of the earliest and potentially most valuable contributions to the development of German political theory during the Weimar period came from the field of political geography. The general approach and the original concepts in this field were not natively German but were first suggested by the Swedish scholar, Rudolf Kjellen, whose translated works had begun to achieve considerable circulation and notice in Germany just prior to the end of World War I. Kjellen had been trained in a juristic tradition similar to that of the German *Staatsrechtslehrer*. Having realized, however, that this approach afforded little insight into the many factors which seemed to be involved in the explosive international political alignment which he was witnessing in the decade prior to 1914, Kjellen had set himself the task of discovering just what these factors were, and of developing a conceptual framework for considering them. His first attempt in this connection was published

in Germany in 1917 under the title *Der Staat als Lebensform.* The central thesis of this book was that the state had to be considered as an actor and that once this was realized one could then proceed to devise categories and methods of analysis for examining the various factors which were involved in state behavior. The same point of view, but more carefully worked out, was expressed in his next volume, *An Outline of a Systematic Science of Politics.*[1] The subject matter of politics, as Kjellen saw it in this second treatise, was

> . . . the state as a fact of international law, as a member of the system of nations: those acting persons of history which are known to us as England, Germany, etc. They stand before us as objective, living realities. Our job is to analyze the operation of these empirically perceivable, super-individual realities.[2]

Kjellen's actual conceptual framework for considering the data of politics as he understands it, comprised five general categories, each with its own special scientific term and broken down into further subaspects. These five general categories are *geopolitics,* concerned with the country's location, its geographical form and contours, and the nature of its territory and natural resources; *ecopolitics,* comprising the sphere of government participation in the economy and the nature and problems of the existing private economic life; *demopolitics,* involving the background and general equipment of the population, its physical condition and its psychology; *sociopolitics,* concerned with the type of social system and the problems of its operation; and finally, what Kjellen calls *cratopolitics,* the study of the institutions and processes of the governmental system, the problems of its operation and the matter of the state's capabilities in the area of international politics. To the elaboration of these five categories Kjellen devoted the remainder of his study.[3]

With no tradition of an organized discipline of political science in Germany to receive it, and with the over-all problems of national existence temporarily obscured by the intellectual and political confusion following the collapse of the Imperial order, Kjellen's substantial contribution to the development of political science in Germany was largely lost. It was only in the political-science syntheses of the early 1930s that his work was taken up again and, in combination with methodological contributions from sociology, was further developed. In the meantime, ignored by most of the traditional-type students of public affairs, Kjellen's writings were taken over by a group of pseudoscientific geographers, the geopoliticians, headed by the retired army officer, Karl Haushofer.

KARL HAUSHOFER Intended by Kjellen as the scientific study of one of the significant factors in international politics, the geographic, geopolitics in the hands of Haushofer and his followers was handicapped from the beginning by the fact that it was designed to serve a very

strongly felt national political purpose. That purpose was stated by Haushofer as follows:

> When after tremendous sacrifices, effort and performance . . . a people experiences such great destruction of its traditional way of life and such a wanton . . . mutilation of its territory as have the Germans, it has the right to ask what was lacking in those whose job it had been to guard this way of life and territory. . . It is this desire for a more effective scientific awareness of what is involved in the defense of the national form of life and living space which motivates the work of geopolitics.[4]

Deploring the absence in Germany of a political science (he used the English term) such as was available for the training and guidance of Allied statesmen and for the enlightenment of their peoples, Haushofer attributed this weakness to the fact that German specialists had been unwilling or unable to build "a broad methodology and academic organization as a basis for the study of politics. . . It is into this gap," said Haushofer, "that geopolitics claims to be moving."[5]

Haushofer admitted that "if there existed in Germany a rebuilt science of politics, it would be quite conceivable that the approach and work of geopolitics could be integrated into it. . ."[6] He recognized, moreover, that "the great problem which faces us geographers is the methodological relating of political geography, and its daughter science of geopolitics, to the legal and state sciences and to sociology, and their integration into the over-all structure of the sciences in general."[7] Until this social-science integration comes about, however, Haushofer concluded, "it is up to geography and history to assume the responsibility for filling the vacuum. And it is for this reason that the small but pregnant and challenging prefix 'geo' has been attached to the word 'politics.' "[8]

This claim by the geopoliticians to be fulfilling the function of a German science of politics would have been less damaging if geopolitics, as they conceived of it, had really represented a truly scientific method. From the very beginning, however, it included a number of assumptions, values, and concepts which were never examined empirically and which were maintained against all criticism as a central dogma:

> And what are the great objectives . . . which geopolitics hopes to realize for humanity? Nothing less . . . than to make an appeal to the peoples of the world to bring about a just distribution of the available Lebensraum of the world according to the dictates of culture, power and economics, and thereby to put an end to the three-century-old danger of overpopulation. . . The key weapon of geopolitics in this task of convincing are the figures of population density—the number of inhabitants per square kilometer.[9]

While Kjellen's attempts to develop a conceptual scheme for political science were thus not followed up in the sense he had intended, the geopoliticians, making a mystique of a single one of his categories, developed a deterministic, value-laden pseudoscience which gained little academic recognition but won broad popular interest. Because of its unempirical, one-factor character, geopolitics did a disservice both to

the development of scientific political theory in Germany as well as to the Germans' chances of rationally interpreting their international political situation. As a result of the work of Haushofer and his followers a whole generation of Germans was misguided by the oversimplifications of the *Lebensraum* approach, an approach which later played an important part in Nazi propaganda, lending to Nazi reasoning an aura of scientific validity.

Contributions from Sociology

MAX WEBER In our consideration of Max Weber's contribution to the development of German political science theory and method we must note, in the first place, that this greatest of German students of society was very much in the tradition of German sociology as it had developed in reaction to the impact of industrialization, urbanization, and large-scale capitalist enterprise. As one well-known French observer has commented:

> The work of Weber, the work of the majority of the German sociologists is concerned, above all, with the historical singularity of our Western civilization and attempts to understand its rationalization. It is not a question of re-establishing a discipline, but a community, against bureaucracy and the abstract impersonal order. . . The basic concepts, the historical perspectives, the methods of analysis largely follow from this initial fact.[10]

This orientation in Weber's case emerges not only in his selection of research problems but also from his explicit statements on the subject. For example:

> Only a small portion of existing concrete reality is colored by our value-conditioned interest, and it alone is significant to us. It is significant because it reveals relationships which are important to us due to their connection with our values. Only because and to the extent that this is the case is it worthwhile for us to know its individual features . . . the fact with which we are primarily concerned is the cultural significance of the money economy . . . we are concerned with the analysis of the *cultural* significance of the concrete historical fact that today exchange exists on a mass scale.[11]

The emphasis with Weber, however, always remained on the description and objective analysis of what was involved in this development; he was not concerned with suggesting a social or political philosophy for establishing a new value framework for restoring what had been. The spirit with which he approached his adopted task of understanding is indicated in the following passage:

> Almost all the sciences, from philology to biology, have occasionally claimed to be the sources not only of specialized scientific knowledge but of *Weltanschauungen* as well. . .
>
> The same tendency is now appearing in anthropology. . . There is a widespread belief that "in the last analysis" all historical events are results of the interplay of innate "racial qualities" . . . It is to be hoped that the situation in which the causal explanation of cultural events by the invocation of "racial

characteristics" testifies to our ignorance . . . will be gradually overcome by research which is the fruit of systematic training. If there is anything which has hindered this type of research, it is the fact that eager dilettantes have thought that they could contribute something different and better to our knowledge of culture than the broadening of the possibility of the sure imputation of individual concrete cultural events, occurring in historical reality, to concrete, historically given causes through the study of precise empirical data which have been selected from specific points of view. . . The type of social science in which we are interested is an empirical science of concrete reality (*Wirklichkeitswissenschaft*). Our aim is the understanding of the characteristic uniqueness of the reality in which we move.[12]

German students of social and cultural reality had traditionally worked with what has been called the idealist, historicist approach, conceiving of their methods, researches, and theories as belonging to the *Geisteswissen schaften* and as distinct from those of the natural sciences or *Naturwissen schaften.* Concerned with interpreting and explaining concrete cultural configurations, these students of the *Geisteswissenschaften* had, indeed, come up with very stimulating and penetrating insights. However, since they had no systematic conceptual schemes for depicting and empirically testing the reasoning of their studies, their results remained predominantly intuitively derived, impressionistic *apercus* which often tended to be rationalizations of traditional German collectivistic metaphysics. Weber, on the other hand, while retaining the focus on cultural configurations, set about to transform the *Geisteswissenschaft* approach into a systematic social science discipline for the "analytical ordering of empirical reality." It was for this purpose that he worked out his science of *verstehende Soziologie.* This was a system of logical categories (as in the case of generalized theoretical categories in the physical sciences) but still couched in the subjective point of view as in the *Geisteswissenschaften,* that is, with the focus upon the question of the meaning that persons, things, ideas and normative patterns have to the persons whose actions are being studied.

Weber approached the phenomena of politics and the state in terms of their relevance to the analysis and understanding of his principal subject, the modern order of the money economy. It was in this connection that he considered the question of the institutionalization of authority and developed his classification of the three basic general types: traditional, rational-legal, and charismatic. The former two of these modes of organization Weber held to be appropriate to settled and stable social systems; the charismatic, on the other hand, he defined as involving a claim to authority by an individual, usually for particular *ad hoc* missions and therefore in conflict with the bases of legitimacy of an established, fully institutionalized order. Of greatest interest, for Weber, was the rational-legal institutionalization of authority. The reasons for this have been indicated by Henderson and Parsons as follows:

> What is, for Weber, characteristic of the modern institutional order, is the relative predominance of the pattern of rational-legal authority. This is above

all true of the modern state. . . This predominance of rational-legal authority is not a fortuitous curiosity of modern Western civilization—it is one of its fundamental characteristics, closely interdependent with a great many others. The free market economy could not function without it on an at all comparable scale. Such fundamental things as personal freedom, and the most important liberties as of speech, scientific investigation, the press, are basically dependent upon it.[13]

The state itself, for the purposes of his analysis, Weber defined as follows:

An imperatively coordinated group will be called "political" if and in so far as the enforcement of its order is carried out continually within a given territorial area by the application and threat of physical force on the part of the administrative staff. A compulsory political organization with continuous organization (*politischer Anstaltsbetrieb*) will be called a "state" if and in so far as its administrative staff successfully upholds a claim to the monopoly of the *legitimate* use of physical force in the enforcement of its order. A system of social action, especially that of a corporate group, will be spoken of as "politically oriented" if and in so far as it aims at exerting influence on the directing authorities of a corporate political group; especially at the appropriation, expropriation, redistribution or allocation of the powers of government.[14]

In a society where political theory had traditionally restricted itself to the formalistic concept of the state-person or to the contemplation of the postulated organic collective, such a systematic and empirically-oriented analysis of the organizational aspects of the state, of its system of authority and of its tie-in with the whole socioeconomic environment was nothing short of revolutionary and could not but leave its mark upon the study of politics. Moreover, Weber's use of the subjective point of view of the individual actor as the starting point of his analysis, in contrast with the assumptions about the metaphysical organic of most German students of the state, provided both inspiration and guidance for those German scholars who were struggling with the problems of scientific political theory. Perhaps most important as a potential contribution to the development of scientific political theory in Germany was Weber's methodology of the *Wirklichkeitswissenschaft*, the systematic social science dedicated to the analytical ordering of empirical social and political reality in terms of general, logical categories. The turning away of German students of society from the state during the nineteenth century had, as we have seen, seriously impoverished the German study of politics. With Max Weber that price was being repaid.

Contributions from Jurisprudence

CARL SCHMITT While the geopoliticians and the sociologists were seeking new factors and new methods for broadening the study of public affairs in Germany, a number of outstanding jurists were seriously re-examining their discipline of *Staatsrechtslehre*. One of these was Carl Schmitt. Most of Schmitt's works were concerned with concrete political

problems of the Weimar Republic. Implied in these analyses of the actual governmental process, however, and made explicit in his best-known article, *The Concept of the Political,* were some views about the study of politics which went to the very heart of political theory.

Popularly referred to in the literature as "Decisionism" and "Anti-Neutralism," Schmitt's central position was that the roots of political behavior and the foundations upon which legal relationships rested were not to be discovered in a contemplation of allegedly neutral juristic norms, but in an empirical examination of existing power relationships and what was involved in them. As he saw it, German *Staatsrechtslehre,* by merely deducing legal concepts and systematizing them, had completely ignored and missed the significant political facts upon which the German state had rested:

> The liberalism of the last century had a peculiar but systematic way of transforming and "denaturing" all concepts which had to do with the state or with politics. As an historical and political reality liberalism was, of course, involved in politics as much as was any other human movement. The liberals played politics like everyone else . . . but from the very beginning liberal thinking raised against politics the charge of "force." Such a charge may be inspired by moral conviction but, politically considered, may also mean that a position of power which rests upon an economic and legal superiority is thereby merely resisting all challenges. . .[15]

It must always be remembered, Schmitt maintained, that every juristic norm represented the legitimation of the power of a concrete person or group of persons. The functioning of a legal norm assumes a "normal" situation which cannot be created by the norm itself but only by a power relationship which guarantees the existence of the norm and action in terms of it. "The sovereign," he said, "is whoever has the decision over the state of emergency." Thus, every functioning legal system goes back to, and always represents, a political decision which was made prior to the establishment of the norms, in the area of what Schmitt called the existential. Taking this position against the so-called pure and allegedly politically neutral juristic thinking of traditional German *Staatsrechtslehre,* Schmitt gave the following definition of the political:

> The specifically political distinction to which political actions and motives can be reduced is the distinction of friend and enemy. . . The political enemy need not be considered morally evil or aesthetically unpleasant, nor need he be an economic competitor. . . He is simply the other one, the stranger, and it suffices that in being such . . . he reflects, in the eventuality of a conflict, the negation of one's way of life, and because he does so, one defends oneself against him in order to preserve that way of life. . .
>
> Whether one may consider it responsible or not, that one may perhaps find in this fact an atavistic remnant of barbaric times . . . or that one may hope that this distinction will one day disappear from the earth . . . all this is here irrelevant. . . That nations may still be grouped in the contrast of friend and enemy . . . is a fact which one cannot reasonably deny. . .
>
> The enemy is thus not the competitor or opponent in general, nor is the

enemy the private opponent whom one may hate (inimicus) . . . the enemy is only the public enemy (hostis). . . . Central to the concept of enemy is the constant possibility of a struggle. . . . The present definition of the political is no more militaristic or imperialistic than it is pacifistic. . . . Nor does the distinction of friend and enemy mean that a certain nation must be the permanent enemy of another. . . . What is essential is always only the eventuality. . . . That the occurrence of this eventuality is the exception does not change the distinctive character of the relationship.[16]

According to Schmitt, the sphere of the political cannot simply be equated with the state, for, he maintains, the state and society have become more and more separated. The political relationship of friend and enemy applies to any group of people who are oriented to the eventuality of a potential life-and-death decision, and are integrated for that eventual purpose. The implication is that all human interaction, no matter in terms of what functions or values, is political in this sense. To speak of norms being involved, according to Schmitt, is to "neutralize" or "depoliticize."

From a methodological point of view, Schmitt's insistence upon the importance of the concrete power relationships involved in the establishment and operation of a social system's normative order was undoubtedly a step forward toward a more scientific theory of politics. Not so, however, his definition of the political. In the first place, his thesis sought to deny the relevance of norms altogether. Yet, as contemporary sociological theory has established, human interaction in terms of a social system would be impossible without a basic core of shared norms to guide and integrate the behavior of the various individuals and groups.[17] In the second place, Schmitt's definition of the political did not by any means constitute a contribution to the empirical analysis of the factors which were involved in political action and the development and expression of political power. What it did, rather, was to place these factors in the area of the ultimately irrational where, grouped together as a mystique, they would remain even more inaccessible to empirical inquiry. Indeed, Schmitt's thesis that the only possible alignment between peoples was their integration in groups poised for the potential life-and-death struggle—albeit in cruder form—became one of the central tenets and the ultimate political value, if such it can be called, of National Socialism.

RUDOLF SMEND Another well-known jurist who attempted to broaden the perspective of traditional German *Staatsrechtslehre* was Rudolf Smend. Smend began by accepting both Weber's concept of social action in terms of the subjective meaning to the individual actor as well as his definition of the state as an organization. But whereas Weber had restricted himself largely to pointing up the functions which various institutions played in the organization's operation—supporting parliamentary government, for example, because he hoped it might select more capable leaders—Smend was particularly concerned with the relationship

of the individual to the state in terms of these various institutions and their meaning to him.

> The state is not a static entity which emits individual expressions of life such as laws, diplomatic acts, decisions or administrative procedures. Rather, it only exists in these individual, concrete expressions of life in so far as they represent the participation of a total psychic context, and even more importantly, in so far as they constitute and are the occasion for renewals and continuations which in turn contribute to the total psychic context. The state lives and exists only in this process of perpetual renewal and constantly renewed experiences; it lives, to use Renan's famous characterization of a nation for our purposes, on the basis of a plebiscite which is repeated daily. It is this basic process of a nation's existence, its very essence . . . for which I have suggested . . . the term "integration". . . The state exists only because and in so far as it constantly integrates itself and thus constitutes itself in and through the individual. . . This permanent process is its essence as a psychic-social reality.[18]

Smend distinguished various types of integration, with the principal forms being what he called "personal" and "functional." As regards the former, he pointed out that leadership not only performs a technical, executive function in the state, but serves importantly to integrate the citizens by providing a symbol for them and thus eliciting their participation. People like Weber, he said, who conceived of various types of leadership as merely different techniques of government, completely missed this important aspect. As regards "functional" integration, Smend found that elections, parliamentary debates, the formation of cabinets and referenda were not solely technical parts of the process of government, but served at the same time, and just as importantly, to promote and channel participation by the citizens and to integrate them, thus creating the very basis for governmental procedures and their acceptance.

While these facts were being neglected by traditional political study and those who had devised and were operating within the Weimar constitution, Smend drew attention to the fact that:

> It is one of the strengths of fascism, whatever one may think of it otherwise, that it has seen the necessity for this kind of manifold integration with great clarity. With all its rejection of what is liberal and parliamentary it is, nevertheless, masterfully handling the technique of functional integration and is replacing the socialistic integration which it rejects with other kinds, such as the national myth, the corporate state, etc.[19]

Smend—as did Schmitt—marked himself as a German of his time and expressed the relation of his work to what he held to be the crisis situation of Weimar German society, in this significant statement:

> Insights such as those here presented are not common to foreign thinking. But this is not surprizing: foreign political theory is relatively naive and without serious problems, for it has as its basis, in countries such as France, England and the United States, a national political unity and solidarity which can be taken for granted. This precondition is lacking in Germany. But for this very reason the awareness of the integration aspect of the political order is much more important and necessary in a federal state charged with tensions between

the federal and the individual states and in a nation where national solidarity cannot be taken for granted.[20]

While Schmitt and Smend thus each drew attention to aspects of the political process which up to that time had been neglected, each, by overemphasizing and making a mystique of what he had discovered, did the cause of scientific political theory as much potential harm as good. The work of both of these men, as can be seen from their writings, could not be understood without reference to the condition of the society in which they lived and worked. The fact that they *did* see new aspects of what was involved in politics, the fact that *what* they saw turned out to concern the nature of politics and the function of "integration" in strengthening national political solidarity, and the fact that each overstressed his discovery to the exclusion of almost everything else, indicates the disintegrated condition of Weimar German society and politics and the sense of immediacy with which both men reacted to it. Indeed, both the diagnoses of German society implied in Schmitt's and Smend's work, as well as the theories they developed on the basis of these diagnoses, constituted statements on an academic and intellectual level of what a few years later was being intuited and practised on German streetcorners by the National Socialists.

HANS KELSEN Another well-known jurist who was highly sensitive to the social and political conditions of central Europe was the Viennese *Staatsrechtslehrer* Hans Kelsen. But, instead of running the risk of allowing a close investigation of the empirical situation to force him to develop potentially antiliberal and antidemocratic theories and conclusions, Kelsen sought to evade this situation by a return to the Imperial-type legal formalism. Kelsen's central position was that the study of politics and the state should not and could not be conducted as a social science because, he insisted, the state was identical with its legal system, for the study of which social science was simply not appropriate.

> If once it is recognized that the operation of the state constitutes the fulfillment of norms and not a process of cause and effect, that that specific unity does not lie in the world of natural reality but in that of norms and values, that the state in its essence is a system of norms or the expression of the unity of such a system, then we have already realized that the state as an order can only be a legal order or the expression of its unity. That the state is fundamentally related to the legal system is generally recognized. That this relationship does not constitute an identity is only assumed because one does not recognize the state as an order. But if one recognizes the state as such, then to reject this identity implies the existence of a dualism of two systems of norms, of which the one is the positive legal order, the other only a complex of ethical and political norms. . . If the state is a system of legal norms, it can only be the system of the positive legal norms, because the effectiveness of the former precludes the acceptance of any other.[21]

The present reading of Kelsen's principal works indicates that there was one fundamental reason for Kelsen's insistence upon the identity

of the state with its legal system and his rejection of the appropriateness of social science for its study. That reason would appear to be that Kelsen, like the Imperial *Staatsrechtslehrer,* despaired of the possibility of free national political and social integration and compromise on the basis of liberal and democratic values and institutions and therefore felt forced to resort to the proposition that the only genuine unity upon which the state could rest was a legal one. He wrote, for example:

> It is quite incomprehensible how various *hostile* economic, national, religious and other groups can be united into social systems by their interaction in terms of these roles and functions as sociological theory maintains. . . Because our psychologically oriented sociological theory insists that what is involved in membership in a state are psychological processes with a common content, *it cannot maintain that the employer and the laborer, who are separated by membership of class, can simultaneously be united in the state by shared values. One cannot at the same time be friend and enemy, or love and hate.* Class divisions would have to vanish out of the individual's consciousness if the community of the state were to become possible as an empirical, social-psychological unity. . .[22]

Moreover, he maintained in the same vein:

> Whether someone belongs to the state or not cannot be decided by empirical-psychological research into the interactions between the peoples concerned—how would that be possible! . . . That such individuals as children, the insane, the sleeping, and those who are completely unaware even of their membership in the juristic unity of the state should participate in the psychic interaction which is supposed to constitute the intimate bond of a sociological association is not only boldly maintained as a matter of course by the sociology of the times, but is also a completely unpermissible fiction.[23]

Thus Kelsen sought to justify the substitution of what he called his *Pure Theory of Law* for an empirical theory of politics. All that mattered according to this theory was the state as a logically systematized body of legal norms which were to be the correctly deduced expression of one basic, fundamental *Grundnorm.* "The original and fundamental norm which lies at the basis of the positive legal system has as its typical content that an authority or source of law be set up, whose decrees are to be legally effective: Act as the legal authority—the monarch, the popular assembly, the parliament, etc.—commands; this is the sense, simplified for greater clarity, of the *Grundnorm.*"[24] Kelsen admitted that there was a problem of what relationship exists between the content of the system of laws as a system of effective norms and the content of the causally determined concrete actions of the world of reality.[25] Between these, he said, there must always be some disparity, but this disparity cannot exceed a certain maximum—else the positive legal norms are no longer positive; nor could the degree of correspondence exceed a certain maximum—else the positive norm would lose its meaning as a norm. This problem of a certain degree of "tension" between the world of empirical reality and the positive legal norms Kelsen called "the problem of the realization of values" which, he said, was simply a matter

of the inevitable antinomy between "what is" and "what ought to be." That this formalistic answer was merely a begging of the question, and that what he dismissed as "the inevitable antinomy" involved all the aspects of social and political reality with which empirical social science was trying to come to grips, Kelsen ignored or refused to admit.

The objection, from the point of view of the development of scientific political theory, is not to the Pure Theory of Law as a theory of law, which it had started out to be. As one authority on Kelsen's legal system has written:

> In the same way that Kant made the physical sciences aware of their limits, the Pure Theory of Law seeks to define the limits of the science of law. . . The problems of the ultimate being must be left by natural science to metaphysics, for they are metanatural; so too in the normative sphere, the problem of creation is metanormative, in legal science, metajuristic.[26]

The objection, rather, is to Kelsen's attempt to use his Pure Theory of Law as a general theory of the state and to substitute it for the empirical consideration of the social and political phenomena which, step by step, despite its biases and shortcomings, was at last laying the groundwork for a truly scientific theory and method of politics.

Inasmuch as Kelsen's reason for denying the appropriateness of social science for the study of the state was his assumption that the state was essentially nothing more than its legal system, deduced from a basic *Grundnorm*, his work must be considered, first, as a piece of methodological reaction and, second, as an evasion—much in the tradition of the Gerber-Laband school of Imperial *Staatsrechtslehre*—of the concrete social and political situation for the analysis and understanding of which social scientists and others were trying to develop a reliable and empirically oriented methodology. For this reason the verdict penned by Hermann Heller in 1926 does not seem unjustified: "Without intending to be ironical, I see Kelsen's greatest achievement in the fact that without concessions, with very great emphasis, and with extraordinary brilliance, he took his stand for logistic legal positivism and developed it to its final absurdity."[27]

CHAPTER SIX

Scientific Political Theory in Weimar Germany

On the basis of the contributions of the geographers, sociologists, jurists, and others who were seeking to supplement and reconstruct the study of the state and of politics—only a few of which we have had the space to discuss—there were developed in the Germany of the early 1930s a number of applied and theoretical treatises concerning politics which, for the first time in the history of German scholarship, deserved to be called works in political science as such. For present purposes, we must limit ourselves to a brief consideration of two of these treatises—Adolf Grabowsky's *Politik*, published in Berlin in 1932, and Hermann Heller's *Staatslehre*, published posthumously in Leiden, Holland, in 1934.

Adolf Grabowsky

Grabowsky's general position and his reasons for believing in the necessity of scientific political theory are set forth in this passage:

> Modern life and above all modern national political life have become tremendously complex. . . . The organization of the state has become more intricate; the relations of states to one another have become more intimate and varied. All this and much more, makes it impossible for the statesman to grasp everything that is involved in the functioning of the state by merely impressionistic methods. He must learn this as a mechanical engineer must master the development of mechanical construction. And in this study it is not enough to stop with the legal foundations of the state; he must learn to understand the state as such, the state in its total functioning, the state as an operation . . . but this means that he must turn to political science (*Politikwissenschaft*).[1]

Grabowsky divided his treatise, *Politik*, into four parts: Political Science Theory; World Politics; Internal Politics; and Special Problems of Foreign Policy. Although his original approach to political science had been largely via geopolitics, he had soon come to realize, he wrote, "that geopolitics is by no means a special science but merely one method of approach among others, and that it is most important that it be methodologically integrated with other approaches to political science. . . ."[2]

A clue to Grabowsky's sophistication in the area of political analysis may be seen in the following point concerning the relationship between

a society's national and international politics, a point that had been conspicuously neglected in standard German studies of the state before that time:

> That internal politics is concerned with the operation of the state's domestic affairs and that foreign policy comprises the individual state's relations with other states and the whole international context is obvious. But from this follows that the internal politics of the other states is the concern of the foreign policy of the particular state which one may be considering. And from this, in turn, it follows that the very foundations of all foreign policy must be the intimate knowledge of the other powers. And just as we cannot know a state in general merely by understanding its judicial system, so we know just as little about foreign powers if we merely analyze their constitutions or their legal organization. . . We cannot understand the structure of a state by considering it statically. . . In studying foreign states we must seek to analyze them in their actual operation, with reference to everything that is involved in their functioning as an international actor.[3]

In the area of international politics, Grabowsky held, the state finds its fulfillment. "Here it must consolidate all its capabilities to survive amid the international competition . . . and to develop and maintain power." But the friend-enemy theory of Carl Schmitt, Grabowsky felt, was both too inclusive and too narrow. Power is the means for assuring survival in a relative *status quo*. It is the relative *status quo* which is the end. And there are many political phenomena, such as social welfare, communication and educational policy, for example, which cannot be explained solely in terms of power.

In a discussion of the importance of further developing the new study of political parties and relating it to the survey and analysis of political ideas, Grabowsky came to a consideration of the importance of sociology for the scientific study of politics. Anyone will readily see, he said,

> . . . that the analysis of parties is not possible without a knowledge of the structure of society; the study of political parties has led us directly to sociology. But in order to get an adequate analysis of the social structure, we must analyze all the other social phenomena, the estates, the classes, and also the smallest social cell, the family. From this it follows that political science is impossible without the support of sociology. . . The structures of estate, class and family in a constitutional state always operate in some manner under the sanction of the law, but they are essentially not of a legal nature.[4]

In his section devoted to the consideration of "the modern state and world public opinion," Grabowsky made the following perceptive comment:

> . . . Another force which has developed side by side with the state is internationalism. . . These international ideas are dysfunctional to the state but do not destroy it. The first root of this internationalism is international public opinion, world public opinion, which is undoubtedly a power, a blessed or a dangerous one, if for no other reason than because a systematic and very aggressive propaganda has been built upon it. We experienced this fact to our disadvantage during the war (1914–1918). In the meantime this propaganda

has been developed into a full-fledged science, without science, however, having taken much notice of this fact. . . The smaller the world became—the more inextricably interdependent, the greater became world public opinion. It is not the extract of the public opinions of various countries but something distinctive which rests upon common cultural convictions and is strongly fortified by what one calls the world press. The individual state must adapt itself to it, if it does not want to sacrifice international moral sanction; but it can, at the same time, do much to influence it, and a large part of the diplomatic activity of our time consists of such influencing. . .[5]

It may be appropriate to conclude these excerpts from Grabowsky's treatise on the theory and practice of politics by quoting briefly from his analysis and appraisal of the social and political situation of post-World-War-I Germany. After describing the impact of the defeat upon Germany, the lack of statesmanlike political leadership, and the general social, political, and economic uncertainties of the period, Grabowsky wrote:

. . . in reaction to these is developing what can best be described as the flight into collectivities. The harried, unbalanced, insecure and nervous human being, feeling that he can no longer maintain and assert himself individually, rushes into collectivities, seeks to attach himself to them and to turn his responsibilities as a human being over to them. It is as an expression of this general situation that socialism and solidarism, unions . . . and employers' associations have developed; their roots are in capitalism; their flourishing, however, has been powerfully promoted by the deep anxieties of the period (*Lebensangst*). . . This world phenomenon is especially noticeable in Germany for two reasons: firstly, because it is here that in the last ten or fifteen years the uncertainties of life have increased more enormously than elsewhere; and secondly, because the tension between the desire for a personal sense of responsibility and the need felt to submerge oneself socially, has in Germany been particularly strong. . . The less the German feels comfortable in the collectivities and the more he is driven into them in spite of himself, the more strongly is he tempted to make a matter of philosophy of life out of them. Other peoples see in the great collectivities a necessary evil; the German, in order to justify himself in his own eyes, sees in them an inner necessity—an historically much more accurate view, which, however, should not make it necessary to wrap these collectivities in a pompous ideology.[6]

It would be interesting but is neither possible nor necessary to quote further from Grabowsky's treatise in the present connection. His analyses and theories, covering a wide range of political reality as they did, inevitably tended to be eclectic and impressionistic. One cannot read these analyses and theories, however, without becoming convinced that one is dealing with a man who constantly had before him the ideal of politics as a social science and who was determined to develop it as such for the formulation and empirical investigation of his society's political problems as best he knew how.[7]

Hermann Heller

The other outstanding political-science synthesis of the period which sought to bring together and methodologically integrate and apply the

contributions in geography, sociology, and jurisprudence which had accumulated since World War I was Hermann Heller's *Staatslehre.* Whereas Grabowsky had begun in close touch with the geopoliticians, Heller, one of the foremost jurists of the period, tended to approach the problem of political science in a somewhat more philosophical and theoretical vein. His entire work is very consciously and earnestly dedicated to what he holds to be the two functions of political science (*Politikologie,* as he calls it): first, "to *analyze* the unique political reality in which we live . . . to understand the state in its structure and function . . ."; and second, "to give a valid and reliable explanation and *evaluation* of political phenomena. . ."[8]

From the very beginning, however, and throughout his book, Heller was very sensitive to the fact that to conceive of political science as he did raised a fundamental problem: By what criteria does one select one's research and set up one's analysis, and in terms of what criteria does one evaluate? The problem usually does not became pressing or articulate, said Heller, as long as there is at least a core of shared values, of "agreement on fundamentals" among the members of a society or at least of groups within the society. "Where, however, political study cannot assume such shared values at all and cannot, therefore, possess any generally acceptable criteria for selecting, setting up and evaluating its researches . . . in such a situation it cannot exist as a science."[9]

It was precisely such a situation, Heller feared, which was threatening political science in the Europe of his time. Since the beginning of the present century, he pointed out, a movement had been growing (Nietzsche, Bergson, Pareto, Sorel) which sought to relativize all theories, to reduce the substance of intellect to a mere function of personal *élan vital,* to make it strictly an expression of the individual's socioeconomic situation, or to see nothing more in it than an ideological weapon in the struggle for power. To the extent that this movement gained acceptance, he prophesied, political science will become impossible and there will eventually be a complete frustration of intellectual communication and coordinated social or political action.

The contemporary tendency to fall back upon deterministic, one-factor analyses in political, historical, and sociological study, Heller viewed as largely a stop-gap reaction for escaping from the relativization of theories and values:

> . . . One selects some socio-historical phenomenon . . . and makes it into an absolute criterion and a constant, in terms of which one pretends to explain all historical and social reality. . . It is with this kind of poor metaphysics, which alleges some one fact of experience as the only reality, dismissing all others as ideological, that all the contemporary radical movements are meeting their scientific needs. It is in this light that one must consider the deification of the state or the nation, the raising to an absolute of a race or class, or the assertion that economics, the will to power or the libido are the sole springs of political behavior.[10]

For this reason, because the cohesiveness and stability of social and

political life have been shaken and because of the competition of one-factor "explanations" of reality, a scientific methodology for political study is a vital necessity. The first characteristic that such a methodology of political science must have, according to Heller, is that it recognize itself as a "cultural" as opposed to a physical science. "The subject matter of the cultural sciences and their problems," he said, "concern everything in which changes in the physical world come about as an expression of voluntaristic human action."[11] Culture must be viewed as

> . . . a part of the physical world which can be comprehended as the product of purposeful human action. In tilling the soil, building houses, in creating works of art . . . man is a bearer of culture. One can juxtapose an objective culture over against man's subjective culture—by taking the embodiment of man's cultural, voluntaristic action out of their to him meaningful context. . . This one can then conceptualize as objective culture. But in doing so, one must always remember that objective culture is only real as subjective culture and that, objectively, it has no meaning except in terms of man's psychic experience and understanding.[12]

Besides being a cultural science, however, the study of politics as Heller saw it must also be an empirical science, a *Wirklichkeitswissenschaft,* as Max Weber defined that term. It has the task of "relating all cultural processes to their human and societal sources and of understanding their significance, if at all possible, as societal functions. . ." Therefore "the study of the state is in every respect a sociological, empirical science, the purpose of which is to depict, analyze and understand the state as a concrete, historical unit within the total sociohistorical context."[13]

The third principal characteristic of the study of politics, in addition to its cultural and empirical aspects, is its essentially analytical and structural quality, as contrasted with descriptive, historical science. For this reason, Heller warned, attempts to lay down eternally and universally valid theories of the state cannot have any true scientific significance:

> The stream of history is not understandable . . . as an undifferentiated total process but reveals itself as a variously differentiated structure of reciprocally conditioned functions and forms. The higher the degree of civilization, the stronger and more complex is the integration and differentiation of the structure. . . And to the extent that we distinguish various functions and structures within the totality of historical reality, we can order our picture . . . and meaningfully select from the multitude of facts and phenomena. The study of the state . . . cannot forget that it must do what historical science and its methods cannot do: to analyze the state as an historical structure and as a function within the totality of concrete historical reality.[14]

Now, said Heller, if the student of politics must visualize and study the operation of the state as an historical-social empirical system, he must begin with an examination of the social reality which is involved. This reality is relevant in two aspects: the physical factors—heredity and the nonhuman environment; and the cultural factors—comprising values,

goals, patterns of behavior and the concrete embodiments of these. As regards the evaluation of the significance of the physical, hereditary and nonhuman factors, Heller pointed out:

> Only if one conceives of the total physical basis in conjunction with the historical tradition, i.e., with the economic, technical, social, pedagogical, political and other cultural characteristics, only then can one expect to obtain an approximate understanding of what weight one should attach to these physical factors in the context of total social reality.[15]

In regard to what he calls the "cultural" requisites of the state, Heller penned what is undoubtedly one of the most penetrating and suggestive pieces of political theory in the German literature up to that time:

> If we ask, what does a psychological mass of people, which seemingly constitutes a collective unit, lack, the answer is: that they do not have a *permanent existence* as such, nor a *provision for making and carrying out decisions*, nor *a constantly operating and intentional system of integrated roles*. A group of people with arrangements for formulating and carrying out decisions we shall call an association, as distinguished from a mere psychological mass. . . In such a mass, the individuals are tied to each other by psychological processes over which their consciousness has no control. . . People are socially associated when and because they know themselves to be in some manner politically, economically, sexually, ethically, etc., interdependent, and because the awareness of this interdependence disciplines, forms and channels the drives and individual motives. . .
>
> Thus social reality is constituted as human living in patterns of a certain greater or lesser permanence. The individual social act is expressed in terms of techniques, forms and organizations through which the personal life is directed into common channels. A psychic-social accommodation and adjustment are created which are quite distinct from and relatively independent of the common physical basis.[16]

The key requisite of the state or any other social unit Heller saw not in Kelsen's legal system nor in Smend's psychic integration but in "*the collective's decision-making and decision-executing capacity.*" And, "the unity of action on behalf of the collective, developed from the larger number of action centers, can only occur where the roles of the majority are, if need be forcibly, consciously coordinated and directed toward the achievement and execution of such a unified decision. This form of action, which aims at a certain type of coordination of roles and their actualization, we call a conscious building of unified action or organization."[17]

The organizational factor, Heller insists, must not be overrated, but it remains a fact that a social unit "cannot come into existence if the manner of coordinated action is not fixed by rational planning, in however modest measure. . ."[18] And what is true of the creation of a social unit is also true of its continued operation, which would be inconceivable "without organizational action which is consciously oriented to the choosing of goals and their realization, that is, the adjustment of the collective action to the changing physical and cultural environment."[19]

It was to a more detailed discussion of this general conceptual scheme

and its application to the analysis of the state and politics that Heller devoted the remaining several hundred pages of his book. When one compares this work and Grabowsky's with the narrowly specialized disciplines of the Imperial *Sozialpolitiker* and *Staatsrechtslehrer* and with the scattered and often one-factor and pseudoscientific geopolitical, sociological, and legal insights which were produced in the decade after World War I, one has the full measure of the development which scientific political theory in Germany between 1870 and 1933 was able to achieve. Unfortunately, as we shall seek briefly to show in the next chapter, the very social, political, and cultural conditions in Weimar Germany which encouraged the increased empirical investigation of political reality and its systematization resulted in developments which, at first because of a weakening of motivation on the part of political and social theorists themselves and then because of political suppression, had by 1933 brought about the ruination of German scientific political theory.

CHAPTER SEVEN

Attacks on Scientific Political Theory

The Weimar Situation

The German political scene during the 1920s was one of constant potential anarchy. This situation was aggravated by the fact that pre-war German society had lacked politically integrating values. The expanding prosperity of the Imperial era was followed by widespread material hardship and profound social, political and economic pessimism. We have seen how this state of affairs was strongly reflected in the research selection and theorizing of all the German students of society and politics from Haushofer, Schmitt, Smend, and Kelsen to Grabowsky and Hermann Heller. In order to point up the problems that beset these German writers, note the diagnosis of the situation in Germany which was penned in 1931 by the well-known French scholar Pierre Vienot:

> One witnesses in Germany the collapse of a certain material, social and moral equilibrium, the end of the bourgeois way of life. How does Germany itself react in the midst of this crisis? . . . Above all by a vast uncertainty; the intellectuals haunted by the cultural crisis and the masses disoriented by realities which are too new. . .
>
> Uncertainty is a permanent fact of German life. The problems of Germany are inexhaustible. While the intellectual is overcome by the complete relativization of traditional values of the crisis of German civilization, the *Kulturkrise,* the average German has become hesitant and confused. The spontaneity of his reactions and his judgment, at times even the simple intervention of practical common sense, are half paralyzed. Even in ordinary, every-day life, the imitation of what is foreign, especially American—or, with others, the desire "to be German"—betray, by the way they are expressed, the absence of a simple, intuitive and natural sense of balance.
>
> That this anxiety could easily become desperation and violence goes without saying. . .
>
> The average German of today says to himself: "This condition of instability and contradictions, this world without laws and forms surely cannot last. We are witnessing the dying of the past in order that the future may be reborn; the present moment is only an historical exception."
>
> Every German imagines a tomorrow which will be different. . . They are waiting for it; they want it; they love it in advance. . . But from now until then, how to live?[1]

The Implications for Scientific Political Theory

It was this profound and many-faceted crisis which saw the development of German scientific political theory surveyed in the last chapter. On the one hand, this crisis in German society provided a stimulus of rare intensity for the objective analysis of what was involved in the operation of society and the state. Where few institutions function without serious difficulties and where little remains protected by traditional values and sentiments, little can escape coming under the microscope of exhaustive and uninhibited empirical investigation. And because of the lack of social and political integration which was the basic aspect of the crisis of Weimar society, the operation of almost no phase of German political and social processes could be taken for granted. Everything was in doubt and therefore subject to the most detached scrutiny. As Karl Mannheim wrote at the time, comparing the American and German sociology of the period:

> In American sociology . . . the most difficult and vital problems crop up one by one, and social study concentrates on the solution of these isolated problems. . . But the phenomena that do not become apparent are: the totality of society, the dynamic forces operating throughout society. . . The totality of society is veiled because of the general belief that if difficulties of single institutions and particular situations are solved in the right way, the entirety of society will reveal itself through a process of integrating the solutions of individual social difficulties. Such a belief is possible as long as there are still vast expanses of territory unexploited and numerous possibilities unexplored; where this is the case it is always possible to find a way out of social dilemmas. . .
>
> We obtain our most important insights into the working of social forces in periods of rapid social disintegration such as that which Germany is now experiencing; for it is at such times that the latent elements become operative in society. The class problem was intelligible not only to German socialists but to all groups of the German intelligentsia, because in recent years the latter have become increasingly aware that their fate is closely linked with that of groups immediately next to them. It was impossible to remedy individual defects by mere reformist measures in a society where, owing to the narrowness of the field of action, no social element could be conceived of independently of any other element.[2]

On the other hand, however, the crisis which thus stimulated social-science objectivity and the examination of the totality of what was involved in a society's functioning also created serious intellectual inhibitions to the development of scientific social and political theory. These inhibitions took two general forms. First, they consisted of attempts to find short cuts to an understanding of reality by means of one-factor explanations such as those of the *Lebensraum* or racist ideologies; and second, they consisted of attacks upon the desirability of objective social science and pleas for a return to some kind of integrating metaphysics. It is to a brief examination of the latter form of inhibition to scientific social and political theorizing that we must now turn.

The Plea for Values, Faith and Organic Unity: Erich von Kahler

One of the most stimulating of the attacks upon objective social science in Weimar Germany was that of the historian Erich von Kahler. In trying to demonstrate the inadequacy of social science for Germany's needs Kahler used as the starting point Max Weber's statement that "science today is a professional, specialized 'occupation' . . . and not a part of the reflection of wise men and philosophers about the nature of the world. . ."[3] In the general dissolution and disorientation of the times, Kahler stated, it was nothing short of irresponsible to escape into the practice of a specialized profession and to ignore the larger, over-all situation. Kahler outlined his own position as follows:

> We do not ask: Here is science. What has it to achieve according to its conception of itself . . . and what can it achieve according to this conception. . . ? We ask, rather: Here is our life. It has these and those critical needs. Is that which calls itself science able to satisfy these needs of ours and to what extent? Upon that depends the justification of its existence. And if it cannot meet or contribute to the satisfaction of these needs, where do we look for and how do we bring about that which will meet these needs which press upon us?[4]

Originally, said Kahler, Western science began as the study and contemplation of man and the universe as God was believed to have created them. Even in the eighteenth and nineteenth centuries, man studied himself, his environment, and the relationship between them, in an ultimately religious or metaphysical framework, in terms of which his analyses and his own existence were conceivable as parts of a great and meaningful synthesis.[5] Today, however, both for man's orientation in general as well as for a meaningful framework for social science, this synthesis exists no more.

> The world . . . is for us nothing more than the understanding of our intelligence, any synthesis which we may be able to grasp at all consists merely of relationships imputed by our reason alone . . . the substantive significance which the old picture afforded to science is discredited and rejected as dogmatic, and the data which empirical science is producing is forever piecemeal and temporary and subject to the constant development of research. . .
>
> Modern systematization is thus not, as were the systems of the past, a central structure which encompassed all origins of life and action in a conception which went back to one Creation; it is, rather, a supplementary construction, a scaffold, an insufficient tool-box to order and master a more and more elusive living reality, a construction, however, which, of course, only serves to confuse this reality even more. . .[6]

The absence of such a synthesis to give the work of social science significance, and thus to enable it to help man to orient himself meaningfully to society and the world, Kahler felt to be particularly serious in the Germany in which he was writing. Nowhere was the lack of world

vision and dedication to the national interest so great as among the political parties and groups which were fighting for control of the German state.

> No, we cannot see the salvation of the German future in this pitiful comedy. We cannot see it at all in this, for the Germans . . . ruinous splitting up into parties which for all time hope to fight their sterile and perpetual battle on the body of the German people. It is time that these representatives be stripped of their hypocritical cloak and their claim to be acting for the whole . . . and revealed as what they are: economic interests and partisan pressure groups. It must be made clear that they are all only parts and that as mere parts and members none of them are entitled to lead the whole state. Even the arithmetical method of counting the parts does not make the whole. They should be assigned their limited places and integrated in the whole as the mere contributing parts which they are. More than that, one should build anew from the roots of this whole and united people . . . and let all the parts and members be aware of one another and of the whole. . . Not division and strife but intimate cooperation, not the further dissolution of the organic, but profound unity . . . of the organic system . . . to find this is the challenge. . . . The leadership which we . . . need today, will be faced with the unprecedented task of fusing together everything in the German which has been torn apart. . .[7]

Instead of analytical, objective social science, Kahler concluded, German society needed

> . . . a relating back of the individual organic systems to the corresponding higher syntheses of the larger organic systems which encompass them—back to the uppermost first cause of all life: in this way organic unity and organic complexity will once again illuminate each other. Adduced to this will be our accumulated ideas as they have undergone various histories and various manifestations and as they have been variously formulated, each in its own sphere—until we reach the highest sphere, where we will have a collection of our whole restlessly suspended, metaphysical, heavenly body of ideas.[8]

What we have here is a counsel of despair. Merely to dismiss this as intellectual fascism, however, or to allege that Kahler and the writers with his orientation were engaged in promoting an "escape from freedom," as has so often been done, is to miss the great question which they posed: can an objective social and political science exist or perform any conceivably constructive function if there is no ultimate consensus of shared values and no minimum political framework which is acceptable to the majority of the members of the society concerned? Whether this was actually the case in Weimar Germany we cannot establish here. For a general study of the social, political, and cultural requisites of the development of scientific political theory, however, the question remains a very important one.

The Plea for Social and Political Reintegration: Hans Freyer

While many of the more emotional intellectuals of Weimar Germany were intensely concerned with the need for a new synthesis of values,

others, like Hans Freyer, were recommending a turning to some kind of nonliberal national socialism for what they held to be wholly empirical and rational reasons. Freyer, recognized as a first-line German sociologist of the school of Max Weber, explained his orientation as follows:

> Sociology developed as the science of the class society of large-scale capitalism, as the science of the structure, the origin, the behavioral laws and the developmental tendencies of this social order of contemporary Europe. The philosophical contrasts of the systems, the difference between . . . positivistic and metaphysical approaches almost disappear in the face of this unanimity as regards subject matter. . . . Sociology knows that in coming late it has not come too late. . . It knows that it developed simultaneously with its subject matter. To the extent that . . . social movements develop independently of and apart from the state, to that extent sociological thinking matures. . . It is the intellectual correlative of the bourgeois revolution.[9]

In view of this origin of sociological studies:

> The intellectual orientation of the *Wirklichkeitswissenschaften* is neither pure contemplation of a concluded and completed picture, nor the detached analysis of the nature of a permanently changing process. Rather, it is the reflective participation in something which is happening. . . The science of reality is simultaneously ethical science. Not in the sense that it can discover ethical norms or that it should apply them, but in the sense that the very subject matter which it has selected for analysis bears in itself an orientation to participation in a certain direction.[10]

Because sociology has from the beginning been concerned with and oriented toward the understanding of the class society of capitalism:

> It documents itself from the very outset as a deeply antiliberal phenomenon, as representing a point of view beyond the ideology of bourgeois society. In conscious opposition to the classical liberalism of English economics and to its diluted Manchester manifestations, it reveals the allegedly natural laws of capitalist economies and societies to be merely a constellation of historical forces. It goes further: the given class society is not only considered as not permanent, but is not even accepted as an adequate basis for further development. The task of understanding of contemporary sociology involves the analysis not so much of its structure as of its instability. . . The contemporary analysis of the structure of society consists chiefly in the demonstration of the revolution which is immanent in it—however the content and objectives of this revolution may be conceived.[11]

Thus, in following the ethical implication in his discipline of sociology, Freyer maintained, he was driven to take a position in regard to politics. As a student of politics and a participant in his social and political situation, he saw three types of general solutions for overcoming the disintegration of capitalist society: first, the Marxian; second, that involving some kind of modification of the liberal-capitalist order; and finally, state socialism. For reasons which he gave in an analysis of the concrete political and social situation of Weimar Germany, Freyer felt that the only feasible answer for the Germans under the given circumstances was a system of state socialism with provision for strong executive

leadership. Thus, while Kahler, the historian-philosopher, attacked social science directly, Freyer, the social scientist, felt it necessary, as a German, to plead for a system in which, as he defined it, social science could not but end by being suppressed.

The Temporary Victory of National Socialism

The lack of integrating and nationally and universally orienting political values and the inability of the liberal democratic institutions of the Weimar Republic to keep the Germans politically integrated as a nation had made almost all of German society, culture, and politics seem "problematical." This crisis, as we have seen, was intensely felt by all German students of history, society, and politics. For a few of them, who succeeded in maintaining their equilibrium as human beings, the situation had served as a stimulus for research and theorizing of a breadth and methodological sophistication which were unprecedented. For the remainder—and they were the vast majority—the crisis meant either personal disorientation and a passionate desire for a new integrating and directing faith, or fear of potential anarchy and its threat to German cultural and national political survival and therefore a desire to remedy the situation as quickly as possible by resort to a readapted version of the authoritarianism of the era before 1919.

When the masses of the German people responded to Adolf Hitler, the majority of German students of the state and society did not rejoice. But neither did they violently object. They were resigned. On the one hand, they were revolted by the crudeness of National Socialism and its methods. On the other, they believed that the responsibilities of office would bring moderation and restraint. What was decisive was that Hitler, in his own fanatical way, seemed to have diagnosed Germany's troubles much as they had themselves. Germany needed a strong leader, they had said; Germany needed new, integrating national values; Germany needed a new economic, social, and political system. Hitler was not the ideal answer but, many of them concluded, he was probably better than the alternatives. And so they reconciled themselves to the so-called Thousand-Year *Reich*.[12]

Once the price of Hitler's program had become apparent most of the German scholars in question appear to have been honestly shocked and horrified. But by then it was too late. A few made peace with the system and remained in their jobs as the new regime's indoctrinators and apologists. The rest—either because they were social scientists or on allegedly racial grounds—were forced to emigrate or sentenced to concentration camps. For free scientific inquiry were substituted the myths of Nazism and the *Führer's* intuition. German scientific political theory between 1933 and 1945 was dead.

CHAPTER EIGHT

German Political Theory since 1933

German Political Theory and National Socialism

Because the writings of Nazi leaders and their apologists were intended almost exclusively to serve as instruments in a national and international power struggle, and not to add to human knowledge, they must be considered as setting forth a political ideology and not as contributing to political theory. Their sole purpose, indeed, was to make possible, to justify, and to provide the guiding logic for the realization of one supreme objective. That objective was to reverse the relative demographic, industrial, and political decline which since World War I had been taking place in Germany's international power position, and to do this by bringing about Germany's triumph as the first power on the Eurasian continent under the leadership of Adolf Hitler. In giving a brief summary and analysis of Nazi writings and of the efforts contained in them to serve this overriding German national objective, the present treatment attempts to do two things. First, it endeavors to draw attention to the diagnosis of Germany's domestic and international situations which underlies, and is implied by, the ideology of National Socialism; and second, it seeks to show that the ideas in terms of which Nazi ideologists hoped to cope with this situation as they understood it were not essentially new but, rather, tended to be readaptations of elements in the German politicocultural heritage whose roots went back well into the nineteenth century.

THE PRIMACY OF *STAATSRÄSON* Given the objective of not only restoring Germany to its relative international power position as of 1914 but of even further strengthening that position, it was not surprising that the first and most basic tenet of National Socialism was the unqualified primacy of what Nazi leaders defined as *Staatsräson,* or national interest. Elsewhere—in the United States, for example—the achievement of nationhood had occurred in circumstances in which universalistic ideals of individual liberty and the objective of national unification were not only compatible but actually reinforced each other. In Germany, it will be remembered, this had not been the case. Internal German dynastic particularism and the prior existence of established neighboring states with universalistic ideals and with an interest in making German unification as difficult as possible had—as the experience of German liberals after

1848 showed—made it seem necessary to purchase the achievement of nationhood from Bismarck at the price of sacrificing the ideals and processes of political liberalism. Thus the concept of *Staatsräson* had in Germany been culturally and politically restrictive from the very inception of the German state.

During the imperial period, as has been pointed out earlier, the majority of German intellectuals had remained convinced that because of the lack of a basic ideological and political consensus among the various sections and classes of their society the precondition of the German state's survival was submission to authoritarianism in the name of the allegedly politically neutral state-person. It was this same rationale which was put forward by National Socialism. But whereas the imperial regime, in spite of its undemocratic orientation, had felt it compatible with its security to leave wide areas of its culture and politics untouched, the Nazis held it necessary to use the concept of *Staatsräson* to justify the control and violation of all public and private relationships, even in their minutest detail. And, it must be admitted, given their objective of German hegemony, given the odds which they confronted—including an increasingly populous Soviet Union—and given the economically depressed, socially demoralized, and politically fragmented condition of German society in 1933, the Nazi development of the principle of the primacy of *Staatsräson* into the doctrine and practice of the totalitarian state appears inevitably to have been the only possible answer. To recognize this is by no means to accept this answer as having been a just basis for political action or to condone the violations of human life and dignity which were committed in its name. What is meant is simply that if a country of the potential of Germany—less than the size of Texas and with some sixty-eight million inhabitants—was to attempt to play the role which the Nazis envisaged for it, then the basic precondition could not but be total economic, cultural, and political mobilization. The only alternative would have been to renounce the aspiration to such a role and to accept for Germany the long-range status of a third-rate power. But it was precisely against this latter alternative that National Socialism under Hitler was in rebellion.

THE MYTH OF THE GERMAN *VOLKSGEMEINSCHAFT* The second basic tenet of National Socialist ideology was the alleged existence of an organic German racial-cultural community, a German *Volksgemeinschaft*. Once again, this concept was primarily a readaptation of a form of German political metaphysics which had first been developed as a compensation for the absence of German national political status at the beginning of the nineteenth century. And, once again, the belief in the German *Volksgemeinschaft,* and especially its definition as a collectivity of altruistic, unquestioningly obedient, and racially superior Teutons, were very directly tailored to serve as norms with which Hitler and his followers hoped to mobilize and lead the German people in achieving the

objective which they had set for them—German hegemony over Eurasia.

According to the Nazis, the German *Volksgemeinschaft* had been steadily disintegrating since before World War I. This, not military defeat, the Nazis insisted, had been the real reason for the Germans' inability to win in the 1914–1918 conflict. Both of these circumstances, according to Nazi ideology, were ultimately traceable to the corruption of the true, German way of life by alien theories and attitudes of economic, cultural, and political individualism and rationalism. Economic individualism and rationalism, it was maintained, led to depression, unrest between capital and labor, and, ultimately, to communism. Cultural individualism and rationalism, the ideology went, resulted in skepticism, internationalism, nihilism, and, eventually, complete disorientation and the inability to act. Individualism and rationalism in the realm of politics, finally, brought with them, first liberal democracy, then the fragmentation of society into hostile political groups, and, in the end, civil strife. If, therefore, the Nazi ideology maintained, the German people were to be totally mobilized and motivated to make the sacrifices in the name of the German *Volksgemeinschaft* which the struggle for international hegemony would require, the principal task confronted by the Nazi government would be the extirpation of individualism and rationalism in German economics, culture, and, above all, politics.

THE CORPORATE STATE The third basic tenet of National Socialism, the doctrine of the so-called corporate state, was designed to eliminate individualism and rationalism from the area of German economics. While the profit motive was to be maintained as the basic motivation of both labor and capital, the corporate Nazi state sought to organize both capital-labor relations and production planning by means of state-controlled syndicates. As the Nazis saw it, such an economic organization combined the advantages of both capitalism and socialism. It maintained a maximum of free enterprise incentive. It eliminated the *raison d'être* for labor unions and strikes. Above all, it left control over the planning and operation of the economy at all levels directly in the hands of the state. Although, through the policies of the Nazi corporate state, the German worker undoubtedly received some economic concessions during the 1930s, he was forced to pay for these concessions with the sacrifice of all hope of influencing the political decision-making of the German state even in the slightest. As the years passed, he found himself compelled to work ever longer hours and at an ever intensifying pace—for gains which were far from commensurate. But these were precisely the results for which Nazi ideology had adopted the doctrine and organization of the corporate state: to achieve the maximum possible control over German economic life and to operate the German economy, in the preparation for and carrying out of the struggle for German hegemony, at the cheapest possible price.

ANTI-SEMITISM The fourth of the principal tenets of the Nazi ideology,

anti-Semitism and the doctrine of the alleged superiority of what were defined as Aryans, was designed primarily to explain the existence of, and to, counteract, individualism and rationalism in a cultural sense. Although the diagnosis of the German situation implied in the total Nazi ideology indicates a somewhat more informed, even though far from adequate, understanding of the roots of Germany's weakened relative power position, the one-factor "explanation" for this development which Hitler sought consistently to fix in the minds of the German people was the alleged subversive role of what Nazi ideologists defined as the Jews. We have seen, in the works of Treitschke, that even in Imperial Germany, the Jews tended to be stereotyped as representing an economically individualistic, culturally relativizing, and politically internationalistic force which, especially by German conservatives, was held to be incompatible with the mystically collectivistic and authoritarian ethic which was alleged to be natural to the Germans and without which, it was maintained, the German state could not survive. This same orientation was taken over by the Nazis. But since, in the meantime, individualism and rationalism had become much more advanced and widespread in German life, and since the demands which Hitler planned to make upon the mystical German *Volksgemeinschaft* were much more drastic than those which had been imposed by the Imperial regime, anti-Semitism as a symbol of what the Nazis alleged had to be eliminated from German life and as a policy was taken to extremes under the leadership of Hitler which were unprecedented in their irrationality and brutality in the whole history of Western civilization. Ultimately, much of the Nazi German record of persecution of, and atrocities against, what were defined as Jews must be studied as a problem in abnormal psychology. The present brief discussion has been restricted to that aspect of the subject which appears to be reducible to the Nazis' interpretation of the German situation and to the ideology with which they sought to cope with that situation.

THE FÜHRER PRINCIPLE The fifth and last of the basic tenets of National Socialist ideology, known as the leadership principle, was intended to eliminate individualism and rationalism from German political life or, in effect, to destroy politics in Germany altogether and to substitute for it authoritarianism. As was noted earlier, the proposition that ultimate decision-making for the nation was most effective when concentrated in the hands of a strong authoritarian leader had, at least in a pragmatic sense, been well established both in pre-Imperial Germany and later in the regime of Bismarck. The difference in the Nazi scheme of things was that what previously had been a concession to unfortunate but unalterable circumstances was now raised to a sacred credo. If the German *Volksgemeinschaft* was to be mobilized for the great task which they had set for it, the Nazi ideologists maintained, and if it was to be represented and led in a truly German manner, the German state's

decision-making power would have to be entrusted unconditionally to the *Führer* and delegated downward through the hierarchy of his personally chosen subordinate *Führers* only as he saw fit. In Hitler's own words:

> There shall be no decisions by majority, only by responsible individual persons; the word "council" must be restored to its original meaning (i.e., advice). Every man shall have his advisers, *but the decision shall be made by one man.*
>
> The principle which in days past made of the Prussian army the German people's most wonderful instrument must, in its traditional sense, one day become the basis for the construction of our entire state constitution: *authority of the Führers downward and responsibility upward.*[1]

SELF-DESTRUCTION OF THE NAZI STATE Although the weapons which destroyed Nazi Germany were those of the Western Allies and the Soviet Union, the explanation of the fact that these weapons had to be used at all, and once having been used, that they were victorious, must be sought above all in the tenets of the Nazi ideology which have just been reviewed and in the objective which that ideology sought to serve. More specifically, it may be said that the Nazi bid for German hegemony came to naught because of three basic circumstances. In the first place, as might have been foreseen by a more rational and cautious man than Hitler and as is now firmly established, Germany was and is too vulnerable geographically and too weak demographically to win for itself the role of a first-rate world power by military means, even with the ruthless total mobilization of the Nazi regime. Second, assuming for purposes of argument that there had been an adequate basis for a German military victory, the narrow nationalistic orientation of the Nazi ideology and above all its anti-Semitism and its belief in the superiority of the so-called Aryans, made it certain that, except for direct military occupation, no other nation or people would or could permanently acquiesce in German leadership or hegemony. And third, even assuming both an adequate base for a German military victory as well as a universalistic ideology to appeal to world public opinion—both of which did not exist—the Nazi principle that decision-making was the proper function of the intuition of one irresponsible *Führer*—Adolf Hitler—would alone have assured ultimate German defeat. To define what a nation's international role shall be and to carry out that role is in the long run a task for a whole people, however difficult and trying its execution may be. To entrust that task irrevocably, unconditionally, and without limitations to a dictator is to prepare for national self-destruction. And that is what happened in Germany between 1933 and 1945.

The German state, assuming its image of itself as a major world power, had been insecure both internally and externally from its very beginnings. It was this circumstance which induced Germans to abdicate their political responsibility to authoritarianism and which, except for

a short period in the 1920s and early 1930s, impeded the development both of philosophical as well as empirical German political theory. In the last analysis, National Socialism was a desperate and reckless bid to remedy German internal and international political insecurity, without regard for the human and material cost and without regard for the sacrifice of moral principles. That this bid and the whole historical development of which it was a culmination ended, in 1945, in Germany's national and international political bankruptcy, was agreed upon in Germany and throughout the world alike. But since there were some sixty-five million survivors, the question remained: where does Germany go from here?

German Political Theory: Present and Future

THE SITUATION AFTER 1945 In the years immediately following Germany's military defeat and the collapse of the Nazi regime and its ideology, the primary interests of the German people were not political. Having been subjected to two years of heavy and incessant bombing, disrupted in its relationships by severe war casualties, and cut off from its sources of food, German society in 1945 consisted primarily of millions of individuals concerned almost exclusively about a minimum of sustinence, shelter, and personal security for themselves and for their next of kin. Knowing full well that as a nation they had begun the war and lost it, and thoroughly accustomed to submission to irresponsible authority, the German people simply accepted the *status quo* of the occupation and contented themselves with trying to make the best of it.

Once basic economic and social relationships had been restored and a minimum standard of living provided for, there also began a gradual rebirth of German political and intellectual activity. And as the first expressions of political activity were a return to the not-yet-forgotten principles and institutions of the general type of the Weimar Republic, so the first manifestations of intellectual activity in the area of politics were a resumption of the traditional disciplines of history, *Staatsrechtswissenschaft*, sociology and the various *Staatswissenschaften*. Work in the field of public affairs has continued primarily in terms of these same disciplines even though, here and there, newly formed institutes for the study of political science as such have attempted to reinterpret and study political problems in a less typically German and more nearly Anglo-Saxon fashion. As was pointed out in the introduction to this study, however, such innovations, fostered at first by United States occupation authorities, have achieved only limited success. Most of the handful of professors of political science which West Germany today possesses continue to conceive of and conduct their teaching and research primarily as historians, jurists, sociologists, and experts in the state sciences. German political theory, therefore, has as yet no established home in German institutions of higher learning.

PRINCIPAL OBSTACLES Among the obstacles to the development of German philosophical as well as empirical political theory since 1945, two have been the most serious. For one thing, the majority of Germans regard Germany's international position as highly fluid, uncertain, doubtful and, above all, almost completely outside of the control of the German people themselves. And second, these same Germans feel on the whole that, in spite of its outward appearance of sound, democratic stability, German internal political life is undergoing a phase that is provisional and strongly conditioned and restricted by events outside of Germany and that its long-range lines have yet to be finally determined. In these circumstances it is not surprising that many thoughtful Germans continue either to be too disoriented to focus with any perseverance or sense of meaning upon theoretical and practical problems of politics, and that others have become convinced that Germany's international and domestic problems are beyond solution and that the only rational response to the situation is to ignore them and to seek fulfillment in some other form of intellectual or practical activity. With the restoration of sovereignty to the German *Bundesrepublik* and with West German rearmament the circumstances of German domestic and international political life may, of course, begin to seem more permanent to many Germans and thus may, sooner or later, begin to be reflected in a more vigorous and confident resumption of German political theorizing. But such a development seems likely to be seriously inhibited by increasing concern among Germans with another matter—the problem of German reunification.

THE FUTURE OF GERMAN POLITICAL THEORY As long as the two Germanies remain separated, and as long as the present West German state is not in a position to undertake effective initiative for bringing about German reunification, the majority of the citizens of the present *Bundesrepublik* seem likely to continue to consider both that state's international status and internal political organization as only temporary. But if the present West German state is ever to achieve a position which is to enable it to undertake effective initiative for bringing about German reunification, it is not inconceivable that many Germans may come to feel that the price may have to be at least a partial abandonment of political democracy. In such an eventuality German political theory might once again be strongly motivated; but, once again, it might well be denied the freedom to express itself.

The majority of Americans tend to be concerned about the state of German democracy because they believe in democracy for its own sake and therefore hope to see it thrive, particularly in a country like Germany. But the American Department of State, and particularly the French Ministry of Foreign Affairs, have also another and much more concretely political reason for being concerned about the condition of political democracy in Germany. For as long as Germany is organized

and governed in the present fashion it will be possible for American and French authorities to exert widespread influence upon German public opinion, not least of all through the American and French information centers which are operated throughout various parts of Germany. For the French, at least, who have made no secret of their fears of a strengthening of the present West German state—whether through reunification or by any other means—the possibility of exerting such influence upon German decision-making, even though indirectly, is of the utmost importance if they are to keep Germany in the subordinate role upon which they so understandingly insist. In order to do this they must make every effort to maintain Germany as a democracy, not only as a matter of ideology but above all as a basic dictate of their foreign policy. But the Germans know this. What if a majority of these Germans should become convinced that in order to be able to reunite their country they must eliminate foreign influences in German politics, and that in order to succeed in doing this they must—however reluctantly—acquiesce in at least a temporary or partial abandonment of the system of liberal democracy?

If such a development should occur—and it is by no means inconceivable—German intellectuals, as happened after 1848, after 1870 and after 1933—would very likely once again feel that, because of the German state's internal and international insecurity, the need of the hour was not for independent political scrutiny and evaluation but for loyal submission to national authority. The result would almost inevitably be either a widespread turning away from matters of politics altogether or an acceptance of national authoritarianism and general eagerness to serve that authoritarianism in terms of various expertises. In either case, the prospects of German political theory—whether philosophical or empirical—would be discouraging indeed. Such an unfortunate state of affairs is as yet by no means certain. But, judging from the development of German political theory as analyzed in the present study, the situation bears the most careful watching.

FOOTNOTES TO THE STUDY

Chapter Two

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